

EXHIBIT 4
DEPOSITION OF
DR. VINCENT LAW

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DANIEL BRYAN KELLY,)
)
Plaintiff,)
)
vs.) Civil Action No.
) 2:05-CV-01150-MHT
)
RICKY OWENS, et al.,)
)
Defendant.)

DEPOSITION OF DR. VINCENT LAW

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED,
by and between the parties through
their respective counsel, that the
deposition of DR. VINCENT LAW may be

Page 2

1 taken before Sandra Peebles Daniel,
 2 Commissioner, Notary Public, State
 3 at Large, at the office of Dr.
 4 Vincent Law, Temple Medical Clinic,
 5 1120 Airport Drive, Alexander City,
 6 Alabama 35010, on the 5th day of
 7 December, 2007, beginning at
 8 approximately 1:00 pm.

9 IT IS FURTHER STIPULATED AND
 10 AGREED that the reading of and
 11 signature to the deposition by the
 12 witness is waived, the deposition to
 13 have the same force and effect as if
 14 full compliance had been had with
 15 all laws and rules of Court relating
 16 to the taking of depositions.

17 IT IS FURTHER STIPULATED AND
 18 AGREED that it shall not be
 19 necessary for any objections to be
 20 made by counsel to any questions,
 21 except as to form or leading
 22 questions, and that counsel for the
 23 parties may make objections and

Page 3

1 assign grounds at the time of the
 2 trial, or at the time said
 3 deposition is offered in evidence,
 4 or prior thereto.

5 IT IS FURTHER STIPULATED AND
 6 AGREED that notice of filing of the
 7 deposition by the Commissioner is
 8 waived.

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1 FOR THE DEFENDANT: (continued)
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 3 WEBB & ELEY, P.C.
 4 7475 Halcyon Pointe Drive
 5 Montgomery, Alabama 36124-0909
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1 A P P E A R A N C E S

2 BEFORE:

3 Sandra Peebles Daniel,
 4 Commissioner, Notary Public
 5
 6

7 FOR THE PLAINTIFF:

8 Mr. Richard J. Stockham
 9 STOCKHAM, CARROLL & SMITH, P.C.
 10 2204 Lakeshore Drive
 11 Suite 114
 12 Birmingham, Alabama 35209
 13

14 FOR THE DEFENDANT:

15 Ms. Kristi McDonald
 16 MCDONALD & MCDONALD
 17 1005 Montgomery Highway
 18 Birmingham, Alabama 35216
 19
 20
 21
 22
 23

1 I, Sandra Peebles Daniel, a
 2 Court Reporter of Birmingham,
 3 Alabama, Notary Public, State at
 4 Large, acting as Commissioner,
 5 certify that on this date, as
 6 provided by Rule 30 of the Alabama
 7 Rules of Civil Procedure, and the
 8 foregoing stipulation of counsel,
 9 there came before me at the office
 10 of Dr. Vincent Law, Temple Medical
 11 Clinic, 1120 Airport Drive,
 12 Alexander City, Alabama 35010, on
 13 the 5th day of December, 2007, at or
 14 about 1:00 pm., DR. VINCENT LAW,
 15 witness in the above cause, for oral
 16 examination, whereupon the following
 17 proceedings were had:
 18

19 THE COURT REPORTER: Usual
 20 stipulations?

21 MR. STOCKHAM: Yeah.

22 MR. WILFORD: Yes, ma'am.
 23

1 DR. VINCENT LAW,
2 having first been duly sworn, was
3 examined and testified as follows:

4
5 EXAMINATION BY MR. STOCKHAM:

6 Q. Dr. Law.

7 A. Yes, sir.

8 Q. My name is Richard
9 Stockham and I represent Daniel
10 Bryan Kelly in this matter. Could
11 you -- I'd like to get some
12 background information if I could.

13 A. Yes, sir.

14 Q. Have you ever given a
15 deposition before?

16 A. No, sir.

17 Q. Okay.

18 A. This is my first one.

19 Q. Then if -- what I'm going
20 to do is I'm going to ask you
21 questions. And if you'll just
22 answer me. If you don't understand
23 me just tell me. I'll repeat it or

1 go back over it.

2 A. Okay.

3 Q. What I'd like to do first
4 is go through your background and
5 get your medical qualifications.

6 A. Yes, sir.

7 Q. First of all, where do you
8 practice?

9 A. Alexander City.

10 Q. Are you a medical doctor?

11 A. Yes, sir.

12 Q. Where did you go to
13 medical school?

14 A. At the University of South
15 Alabama College of Medicine.

16 Q. And when did you graduate
17 from USA College of Medicine?

18 A. 1997, I believe. Yes.

19 Q. And did you -- where did
20 you go for your residency?

21 A. I went to the family
22 practice residency program at
23 Tuscaloosa.

1 Q. And how long did you --
2 how long were you there in the
3 family practice residency program?

4 A. Three years.

5 Q. Where did you go after the
6 three years in the family practice
7 residency program?

8 A. Here.

9 Q. Now --

10 A. This is the only practice
11 I've --

12 Q. Your -- do you have any
13 specialties?

14 A. No, sir.

15 Q. Do you -- are you board
16 certified in any areas?

17 A. I'm board certified in
18 family medicine.

19 Q. Now, are you licensed to
20 practice medicine in the state of
21 Alabama?

22 A. Yes, sir.

23 Q. When did you get your

1 license to practice medicine in the
2 state of Alabama?

3 A. That would be 1997.

4 Q. And have you -- are you
5 current on all of your continuing
6 education to maintain your license?

7 A. Yes, sir.

8 Q. Now, with respect to your
9 practice here, you began practicing
10 family medicine here in Alexander
11 City?

12 A. Yes, sir.

13 Q. And when was that?

14 A. That would be in 2000,
15 August of 2000.

16 Q. And do you have privileges
17 at any hospitals?

18 A. Yes, sir.

19 Q. What hospitals do you have
20 privilege to practice at?

21 A. Russell Medical Center.

22 Q. And do you practice in the
23 family medicine area at Russell

1 Hospital?

2 A. Yes, sir.

3 Q. Are you a general
4 practitioner?

5 A. Yes, sir.

6 Q. Do you practice with any
7 other doctors in your group?

8 A. Yes, sir.

9 Q. What other doctors do you
10 practice with?

11 A. Dr. Temple and Dr. Corbin.

12 Q. And have you practiced
13 with them since you came to
14 Alexander City?

15 A. Yes, sir.

16 Q. Are they both family
17 practice doctors?

18 A. Yes, sir.

19 Q. Now, if you will, describe
20 for me -- do you see patients both
21 here in your clinic and also at the
22 hospital?

23 A. Yes, sir.

1 Q. How does that work?

2 A. As far as the call
3 schedule is concerned, you know,
4 I'm on call every other week. When
5 I'm on call at the hospital I see
6 patients in the morning at a little
7 -- an hour later. So I make rounds
8 in the morning and then I see
9 patients again in the evening after
10 my office hours.

11 Q. And how are patients
12 assigned to you when you're in the
13 hospital?

14 A. It -- well, of course, if
15 they're out-patients they're
16 admitted to our service. But if
17 they're -- if they have no primary
18 care physician then it just -- I
19 don't want to say it's random but
20 it's predetermined. So we have a
21 list of unassigned call days that's
22 printed out by the hospital every
23 month.

1 Q. So if someone comes in to
2 the emergency room and you happen
3 to be on call then that's how
4 you're assigned to that person?

5 A. Yes, sir.

6 Q. You -- if that person is
7 someone else's patient, if that
8 other doctor is not available do
9 you take that patient --

10 A. Yes, sir.

11 Q. -- when he comes to the
12 hospital? And who makes that
13 assignment?

14 A. I'm sorry. I don't --

15 Q. Who makes the assignment
16 to you if it's another doctor's
17 patient but they're not available?

18 A. That's just an agreement
19 between -- one physician to another
20 physician.

21 Q. That's not something
22 that's decided by the hospital?

23 A. No, sir. No, sir.

1 Q. I want --

2 MR. STOCKHAM: Have you
3 finished reviewing the --

4 MS. MCDONALD: He's got
5 it.

6 MR. STOCKHAM: Okay.

7 Q. I want to -- we are here
8 today to talk about your treatment
9 of Daniel Bryan Kelly and his --
10 back in January of 2004.

11 A. Yes, sir.

12 Q. I have reviewed the
13 medical records from Russell
14 Hospital and I'm going to show you
15 what is the -- let me see if I have
16 a copy -- a three-page document
17 which is the history and physical
18 exam -- I don't have a stapler.
19 And I want to show you -- is this
20 your history --

21 A. Yes, sir.

22 Q. -- and physical
23 examination notes?

1 A. Yes, sir.

2 Q. Looking on the third page,
3 is that your signature?

4 A. Yes, sir.

5 Q. And this reflects that it
6 was dictated on the 16th and
7 transcribed on the 17th?

8 A. Yes, sir.

9 Q. Now -- from the medical
10 records. This was something that
11 you would have dictated at the
12 hospital and they'd have typed it
13 up on the 17th and you would have
14 signed it on the 17th?

15 A. Well, as far as when I
16 actually signed it, it's hard to
17 say.

18 Q. Well --

19 A. But it's usually pretty
20 close.

21 Q. Now, if you will go
22 through with me some of the facts
23 that you recite in here.

1 the history of present illness it
2 reflects at the very beginning that
3 he was -- presented complaining of
4 fatigue, malaise, increased
5 confusion and increased yellowish
6 discoloration of the skin.

7 A. Yes, sir.

8 Q. Were these complaints that
9 he made to you or was that just
10 something that you reviewed from
11 the admission chart?

12 A. That I do not recall.

13 Q. This is -- it would have
14 been one of those two things?

15 MS. MCDONALD: Object to
16 form.

17 MR. WILFORD: Same
18 objection. You can answer, Doctor.

19 THE WITNESS: Oh, I'm
20 sorry.

21 MR. WILFORD: If we object
22 to the form you can -- please, go
23 right ahead and answer.

1 A. Yes, sir.

2 Q. It reflects that -- the
3 date of admission and the history
4 of the present illness. Now, were
5 you in the emergency room when he
6 first came in or was he assigned to
7 you after he came to the emergency
8 room?

9 A. I believe he was assigned
10 to me after he came to the
11 emergency room. So I saw him when
12 he was up on a floor.

13 Q. Okay.

14 A. Either the floor -- it
15 looks like ICU. He was maybe
16 admitted initially to the ICU.

17 Q. And is ICU, that's
18 intensive care unit?

19 A. Yes, sir.

20 Q. Is that an area that you
21 have privileges to practice in?

22 A. Yes, sir.

23 Q. And looking at -- under

1 THE WITNESS: Okay. Okay.
2 So we have -- objecting to now?

3 MS. MCDONALD: Just the
4 way he's asked the question.
5 It's --

6 THE WITNESS: Okay.

7 Q. (By Mr. Stockham) It's an
8 objection to the form that I used.

9 But what I want to is:
10 How would you have come to know
11 that information?

12 A. Oh, whether or not it was
13 from the ER report or whether or
14 not he told me that himself, I
15 mean, I can't recall.

16 Q. Any other way you would
17 have known that, though?

18 A. No, sir. No, sir.

19 Q. It says, in addition he
20 reported increased abdominal girth.
21 When it -- is that likewise
22 something he would have either told
23 you in person or something that

1 would have been in a report?

2 A. No, that's --

3 MS. MCDONALD: Object to
4 form.

5 Q. You can answer.

6 A. Oh, I can? All right.

7 I believe that's something
8 that he told me.

9 Q. Next it says, he reports
10 that his symptoms have been ongoing
11 over the past four to five weeks
12 but has recently -- and it's a
13 period. Do you know what might
14 have been after that period that
15 didn't somehow get transcribed?

16 A. Probably, worse.

17 Q. Now, is that something he
18 would have told you or something
19 you would have found in a report?

20 A. Something that he would
21 have told me.

22 Q. Okay.

23 A. Yes, sir.

1 Q. Then it says, he has noted
2 that his urine has been darker than
3 usual. Do you have any
4 recollection about that
5 conversation with him other than
6 what you've got noted here?

7 A. No, sir.

8 Q. He was incarcerated for
9 approximately two and a half months
10 and approximately there was --
11 there has been some type of
12 confusion in terms of his
13 medication for his back pain and
14 his bipolar disorder.

15 Now, that confusion that
16 you have there, is that something
17 that you would have taken by
18 history or something you would have
19 found from some other source?

20 A. That I cannot recall.

21 Q. Okay.

22 A. Sorry.

23 Q. It says, he has been

1 receiving up to three to four times
2 higher doses of Zyprexa, Neurontin,
3 Klonopin, Seroquel and Robaxin.
4 However, the patient is somewhat
5 confused about his medication and
6 his story is somewhat inconsistent
7 at different points during the
8 interview.

9 What were you referring to
10 when you said, three or four times
11 higher dose? Three or four times
12 higher dose than what?

13 A. Oh, in comparison to what
14 he told me he was taking, I
15 believe.

16 Q. Now, when he presented you
17 would have first encountered him on
18 the floor in the ICU?

19 A. Yes, sir.

20 Q. Who would have made the
21 decision that he needed to be
22 placed in the ICU?

23 A. Usually it's a discussion

1 between the admitting physician,
2 the ER physician, and the primary
3 care physician or the admitting
4 physician.

5 Q. And if the admitting
6 physician was -- that would have
7 been the ER person, the doctor in
8 the ER?

9 A. Yes, sir, the physician
10 that initially evaluates the
11 patient.

12 Q. Now, three sections down
13 it's got, medications at home.
14 Where did you get those medication
15 amounts, do you know?

16 A. That I cannot recall
17 exactly. But I believe it was off
18 of the chart.

19 Q. Would have been something
20 in the medical chart --

21 A. Yes, sir.

22 Q. -- in the hospital?

23 A. Yes, sir.

1 Q. Looking at those
2 medications is there anything
3 unusual about the medications that
4 you have -- that you have listed
5 there?

6 A. Could you clarify that?

7 Q. Yeah. I mean --

8 A. I mean --

9 Q. -- is there any reason --
10 did you just -- is that your normal
11 procedure to list the medications
12 that they were on at the time that
13 they present to the hospital?

14 A. Yes, sir.

15 Q. So this is just normal
16 procedure, listing these
17 medications?

18 A. Yes, sir.

19 Q. Now, over on the next
20 page, page two of Exhibit One --

21 MR. STOCKHAM: Have we
22 marked it as Exhibit One yet? I'd
23 like to go ahead and mark this

1 document as Exhibit One if we can.
2 (Whereupon, Plaintiff's
3 Exhibit One
4 was marked for
5 identification.)

6 Q. Under review of systems it
7 says, he has had some marked weight
8 increase, approximately twenty
9 pounds over the past one to two
10 months. Is that his report to you?

11 A. Yes, sir.

12 Q. It says, he has also had
13 some frequent dyspepsia but no
14 nausea or vomiting or hematemesis.

15 What is dyspepsia?

16 A. Indigestion or heartburn,
17 the frequent term that's used.

18 Q. Then the second to last
19 line in that category -- in that
20 section says, he has noted that his
21 urine has been darker than usual.

22 Did you actually see the
23 color of his urine when he came in?

1 A. I can't recall because I
2 couldn't recall whether he had a
3 foley in or not.

4 Q. A foley is a catheter
5 that --

6 A. Yes, sir. Yes, sir.

7 Q. -- has urine that comes
8 out into a bag?

9 A. Yes, sir.

10 Q. It says, he also has
11 noticed a mild swelling in both his
12 feet. Is that something that he
13 reported to you?

14 A. Yes, sir.

15 Q. Now, under the physical
16 exam section is that something that
17 you -- where you conducted a
18 certain series of tests on him?

19 A. Yes, sir.

20 Q. Looking down under the
21 section under H-E-E-N-T it says,
22 sclerae icteric. What does that
23 refer to?

1 A. A yellowing of his eyes or
2 the sclerae.

3 Q. Is that what we call
4 jaundice?

5 A. Yes, sir. Yes, sir.

6 Q. And does that -- is that
7 indicative of some health problem?

8 A. Yes, sir.

9 Q. What is it indicative of?

10 A. Most of the time it's
11 indicative of a liver disease.

12 Q. If the eyes are yellow is
13 that an indication that the liver
14 disease is in an advanced state?

15 MS. MCDONALD: Object to
16 the form.

17 Q. You can answer. She's
18 just -- for the record making --

19 A. Oh, okay.

20 Q. -- making her --

21 A. I guess -- can you clarify
22 the question?

23 Q. Yeah. At what point when

1 someone is having liver problems do
2 their eyes turn yellow?

3 A. In an advanced state --
4 yes, sir.

5 Q. Okay.

6 A. Just say yes.

7 Q. Now, down -- you checked
8 several others and you get to the
9 abdomen. It says, protuberant with
10 noted positive fluid wave test.
11 Does protuberant -- by that do you
12 mean it's sticking out?

13 A. Yes, sir.

14 Q. What is a positive fluid
15 wave test?

16 A. It's a way that we test
17 for ascites, which is
18 intra-abdominal fluid. You place
19 your hand on one side of the
20 abdomen, apply some pressure and
21 you'll feel fluid on the other side
22 of the abdomen with your other
23 hand.

1 A. Yes, sir.

2 Q. And that is fluid that
3 fills that up?

4 A. Yes, sir.

5 Q. What kind of fluid is
6 that?

7 A. It's usually clear fluid.
8 I mean, it's not infectious.

9 Q. Is it something that the
10 body does when the liver is not
11 working?

12 A. Yes, sir.

13 Q. It just fills the whole
14 cavity?

15 A. Yes, sir. You can have
16 different degrees but, like I say,
17 usually it's indicative of some
18 type of insult to the liver.

19 Q. In one of these pictures
20 where he's bending over you can see
21 how it -- his stomach is sort of
22 rolling down over his --

23 MR. STOCKHAM: Object to

1 Q. And ascites, is what?

2 A. Usually indicative of
3 liver disease or some form of
4 hepatitis, inflammatory process of
5 the liver.

6 Q. I'm going to show you what
7 I'm going to mark as Exhibit Two,
8 which are some pictures. I'm going
9 to show you the color ones but I'm
10 going to mark for the record the
11 black and whites that I have. And
12 ask you if this is what you -- is
13 this the protuberant abdomen that
14 you're talking about (indicating)?

15 A. Yes, sir.

16 MR. STOCKHAM: Mark this
17 as Exhibit Two.

18 (Whereupon, Plaintiff's
19 Exhibit Two
20 was marked for
21 identification.)

22 Q. That means it's just
23 sticking out?

1 the form. Richard, I'm going to
2 object to you leading with your
3 question. I mean, he's your
4 witness --

5 MR. STOCKHAM: I'm
6 asking --

7 MS. MCDONALD: -- and
8 you're leading and leading and
9 leading.

10 Q. (By Mr. Stockham) Looking
11 at this particular picture with he
12 -- his stomach is rolling down over
13 the pants, is that a -- the part
14 that you were talking about -- how
15 did you pronounce it, ascites?

16 A. With ascites.

17 Q. Ascites?

18 MS. MCDONALD: Objection.

19 A. You could. Could. It's
20 possible.

21 Q. Now, looking at page two
22 of Exhibit One under your history
23 and physical exam note. Under the

1 section that refers to neurologic
2 it says, there is noted asterixis
3 of the hands. What is asterixis of
4 the hands?

5 A. Flapping of the hands.

6 Q. Flapping of the hands?

7 A. Yes, sir.

8 Q. Is that indicative to you
9 of any problem?

10 A. Yes, sir.

11 Q. What does that indicate to
12 you?

13 A. It usually is a neurologic
14 dysfunction secondary to things
15 like liver disease. You see that
16 in --

17 Q. When you say, neurologic,
18 there's something of -- something
19 is wrong with the nerves?

20 A. Yes, sir.

21 Q. Is that what makes the
22 hands flap?

23 A. Yes, sir.

1 ankle will flap just like the hands
2 will in sort of an arrhythmic
3 fashion.

4 Q. And you said that it's
5 bilateral, so that was in both
6 ankles?

7 A. Yes, sir.

8 Q. Does that indicate that
9 someone is unstable in their hands
10 and their feet?

11 A. A sort of gait
12 instability? Not necessarily, no,
13 sir.

14 Q. Now, looking under the
15 assessment and plan it says,
16 hepatic encephalopathy. Is that --
17 what is hepatic encephalopathy?

18 A. I guess just to simplify
19 things, you know, the liver clears
20 a lot of the poisons that our body
21 makes. And then when these poisons
22 accumulate it can cause confusion,
23 and hence the term, hepatic

1 Q. How do you -- how does
2 that happen? I mean, I guess I'm
3 -- you say it's flapping. Do you
4 just stick his hand --

5 A. I think you --

6 Q. How do --

7 A. I think you extend the
8 hands up and then it's just a --
9 it's an automatic response.

10 Q. And is this an indication
11 of -- that correlates with the
12 yellow eyes?

13 A. Yes, sir.

14 Q. And -- it says, there is
15 also noted mild clonus of the
16 ankles bilaterally. What is mild
17 clonus of the ankles?

18 A. That's also another
19 neurologic finding associated with
20 -- not specifically but frequently
21 with patients with liver failure or
22 insult to the liver. That's where
23 you flex the ankle and then the

1 encephalopathy. Hepatic having to
2 do with liver and encephalopathy
3 having to do with -- could be
4 confusion, but some type of altered
5 mental status.

6 Q. Then back on page one when
7 you said that he was confused, does
8 that relate to that?

9 A. Yes, sir.

10 Q. Now, under number two
11 under the assessment plan --
12 assessment and plan you've got,
13 hepatitis of unclear etiology,
14 suspect secondary to multiple
15 medications.

16 A. Yes, sir.

17 Q. What is hepatitis?

18 A. Inflammation of the liver.

19 Q. Is it -- by that do you
20 mean swelling?

21 A. That's usually a part of
22 it, yes, sir.

23 Q. And what does it mean by,

1 unclear etiology?

2 A. With his presentation
3 clearly he appeared to be -- or
4 suffer some type of -- some
5 significant liver dysfunction. At
6 that time we did not know the cause
7 or causes.

8 Q. And where you say, suspect
9 secondary to multiple medications,
10 what does that mean in plain
11 English?

12 A. I guess I would have to
13 say possibly -- most likely
14 secondary to the medications he was
15 receiving before --

16 Q. Okay.

17 A. -- that was outlined in
18 that list of medications.

19 Q. The six medications that
20 are outlined on the front page?

21 A. Yes, sir.

22 Q. Now, the other things
23 which speak about history, is

1 there's a weakness --

2 Q. So basically go through
3 these same tests that you went
4 through before?

5 A. Yes, sir.

6 Q. On an ongoing basis?
7 What is strict I and O's.
8 What does that mean?

9 A. Monitor his intake and
10 output.

11 Q. On the last line it says,
12 will continue -- will consider IV
13 mannitol with deterioration of his
14 mental status. What does that
15 mean?

16 A. I'm trying to recall.
17 Usually mannitol aids in -- it's
18 used as a diuretic but it may help
19 to help increase or enhance
20 excretion of some of the poisons
21 created in the liver, I believe.

22 (Whereupon, Plaintiff's
23 Exhibit Three

1 that -- of alcohol abuse, is that
2 something that he was experiencing
3 at the time or do you know?

4 A. That I'm not sure.

5 Q. Okay.

6 A. No, sir.

7 Q. It says, admit to ICU. Is
8 that something that you did or
9 something that was done before you
10 saw him?

11 A. Usually the decision is
12 made by the ER physician that
13 initially evaluate the patient in
14 the emergency room and the
15 admitting the physician, the
16 primary care physician.

17 Q. It says, continue serial
18 neurochecks. What does that mean?

19 A. Make sure that there are
20 no mental status changes, any
21 evidence of -- to rule out stroke,
22 for example. Make sure he doesn't
23 have any weakness, seeing if

1 was marked for
2 identification.)

3 Q. Now, I show you what I've
4 marked as -- this will be Exhibit
5 Three. This is a consult report.
6 Is that a -- reflects a Dr. Derek
7 Holcombe. Who is Dr. Holcombe?

8 A. He is a gastroenterologist
9 here.

10 Q. Is this a consult that you
11 would have asked for?

12 A. Yes, sir.

13 Q. Why did you ask for a
14 consult for a gastroenterologist?

15 A. Usually patients with
16 hepatitis, that's -- usually
17 consult a gastroenterologist with
18 those specific GI problems.

19 Q. Now, was he still on the
20 ICU at the time of this consult?

21 A. I don't recall.

22 Q. Now, when he was admitted
23 to ICU was it your opinion that he

1 was suffering from a serious
2 medical condition?

3 MS. MCDONALD: Object to
4 the form.

5 MR. WILFORD: Object to
6 the form.

7 Q. You can answer.

8 A. Yes, sir.

9 MR. WILFORD: I didn't
10 hear the answer.

11 THE WITNESS: Yes, sir.

12 Q. And was it one that if it
13 was left untreated life
14 threatening?

15 A. That's quite probable.

16 Q. Now, looking at this
17 consult that you have here it says
18 that --

19 A. Do you -- excuse me. I'm
20 sorry. Do you have a second
21 page --

22 Q. I don't --

23 A. -- to this? Okay.

1 Q. These are records that the
2 Russell produced and I don't have a
3 second page --

4 MR. WILFORD: Frankly,
5 that's what I'm doing, is going
6 through all this to see if I could
7 find the second page to that.

8 MR. STOCKHAM: I mean --

9 MR. WILFORD: I don't
10 think we've ever had it.

11 MR. STOCKHAM: We haven't.
12 I've been through them several
13 times. That's all I've got.

14 MR. WILFORD: We may have
15 to talk to them about that.

16 MR. STOCKHAM: Yeah.

17 Q. (By Mr. Stockham) But
18 what I want to ask you is -- on the
19 top under the history of present
20 illness that he is -- he reflects
21 -- said, he was also found to have
22 significant liver enzyme
23 abnormalities and new onset

1 jaundice. Would that have been
2 from the result of tests that were
3 performed at the hospital?

4 A. Yes, sir.

5 Q. And what -- when you refer
6 to significant liver enzyme
7 abnormalities, what does that mean?

8 A. I would say certainly
9 elevated above what is considered
10 normal. Markedly -- markedly
11 elevated, when we say that.

12 Q. And is that an indication
13 of a health problem?

14 A. Oh, yes, sir.

15 Q. What health problem is
16 that indicative of?

17 A. Hepatitis.

18 Q. If left untreated is that
19 a serious medical condition?

20 A. Could possibly, yes, sir.

21 Q. Could it result in death
22 left untreated?

23 A. Yes. Depending on the

1 cause, yes, sir.

2 Q. Now, what does new onset
3 jaundice mean? Is that a technical
4 term or is that just --

5 A. It just means that he had
6 -- there is no known history or
7 prior history -- there is no prior
8 history of jaundice.

9 Q. Okay.

10 A. Or yellow -- yellowing of
11 the skin.

12 Q. It says, he does note
13 vague bloating and upper abdominal
14 pain. Is that something that is
15 related to the -- what you were
16 calling the swelling of fluids in
17 his stomach, the bloating?

18 A. That could be. Or could
19 be related to, you know, increased
20 liver size from the hepatitis.

21 Q. And does increased liver
22 size cause -- is one of the side
23 effects of it pain, abdominal pain?

1 A. It can, yes, sir.

2 Q. And it says, noted dark
3 urine for the last week. What does
4 dark urine signify with -- when you
5 have the other problems that you
6 have reflected in your notes?

7 A. It can indicate liver
8 disease and/or dehydration.

9 MR. STOCKHAM: Mark this
10 as the next one, please.

11 (Whereupon, Plaintiff's
12 Exhibit Four
13 was marked for
14 identification.)

15 Q. I show you what I have
16 marked as Exhibit Four, nursing
17 assessment sheet. Is this
18 something that would have been done
19 in the emergency room before Mr.
20 Kelly was brought up to the ICU?

21 A. Yes, sir.

22 Q. And was this -- is this
23 something you would have reviewed?

1 answer, though.

2 A. Yes, sir.

3 Q. Can you explain how they
4 correlate?

5 A. Well, if you have someone
6 with -- that has hepatic
7 encephalopathy with inability of
8 the liver to clear poisons made in
9 our body, then, of course, that can
10 cause confusion, slurred speech,
11 even unsteady gait.

12 Q. Noting on that it says,
13 was seen by Dr. James recently and
14 had abnormal liver enzymes. Dr.
15 James -- you were just substituting
16 for Dr. James when he first came
17 in, weren't you?

18 A. Yes, sir, I believe so.

19 Q. Did you ever review Dr.
20 James' office records on Mr. Kelly?

21 A. I don't believe so but I
22 don't recall.

23 Q. It refers to, abnormal

1 A. On the floor?

2 Q. Yes, sir.

3 A. Yes, sir.

4 Q. Looking at the top it
5 says, chief complaint, weakness,
6 patient jaundice was seen by Dr.
7 James recently and had abnormal
8 liver enzymes. Patient somewhat
9 slow to respond with slightly
10 slurred speech that -- has been
11 falling a lot recently.

12 Do those symptoms that are
13 described in that nurses note, the
14 slightly slurred speech and falling
15 a lot, correlate with your
16 statement of hepatic
17 encephalopathy?

18 A. Yes, sir.

19 MR. WILFORD: Object to
20 the form.

21 MS. MCDONALD: Same
22 objection.

23 MR. WILFORD: You can

1 liver enzymes. I'm going to --
2 I'll show you what I've got marked
3 -- I'm going to mark as Exhibit
4 Five. We've got Dr. Kelly's --
5 excuse me -- Dr. James' office
6 note. Is Dr. James a family
7 practice doctor?

8 A. Yes, sir.

9 Q. He practices here?

10 A. No, sir.

11 Q. Where does he practice?

12 A. Just up the road. Here --
13 well, here in Alex City.

14 Q. He practices in Alex City?
15 And he also has privileges at
16 Russell Hospital?

17 A. Yes, sir.

18 Q. And do you cover for him
19 on occasion?

20 A. On occasion. Very rare.
21 (Whereupon, Plaintiff's
22 Exhibit Five
23 was marked for

1 identification.)
 2 Q. I'm going to show you what
 3 I'm marking as Exhibit Five, which
 4 are Dr. James' office notes. I'm
 5 going to draw your attention to the
 6 entry for January 7th and ask you
 7 if you will look at the bottom of
 8 the first page and the top of the
 9 second page and ask you if those
 10 are reports of -- that refer to Mr.
 11 Kelly's liver enzymes.
 12 MS. MCDONALD: Object to
 13 the form.
 14 (Witness examining
 15 documents.)
 16 A. Yes, sir.
 17 Q. And are -- do they reflect
 18 that his liver enzymes are
 19 elevated?
 20 A. Yes, sir.
 21 Q. Does the fact that the
 22 liver enzymes are elevated some
 23 nine days before he was admitted

1 Q. This is -- Seven is the
 2 first sheet of six and it refers to
 3 a Dr. Williams. Do you know who
 4 Dr. Williams, Dr. K. Williams is?
 5 A. Vaguely, yes, sir.
 6 Q. Is Dr. Williams an ER
 7 doctor?
 8 A. Yes, sir.
 9 Q. Notice under the clinical
 10 impression it's got -- it says,
 11 hepatic encephalopathy, medications
 12 -- and it's got, grade two. It
 13 says, medication induced grade two.
 14 What is grade two induced hepatic
 15 encephalopathy?
 16 A. I'm not sure. I'm not
 17 aware of any type of grading
 18 system.
 19 Q. Now, you'll notice up at
 20 the -- on that same document up in
 21 the upper left-hand corner it's
 22 got, mild ascites. Is that what
 23 you were talking about?

1 correlate with your diagnosis of
 2 hepatic encephalopathy?
 3 A. Yes, sir.
 4 (Whereupon, Plaintiff's
 5 Exhibit Six
 6 was marked for
 7 identification.)
 8 Q. I show you what I'm going
 9 to mark as Exhibit Six -- I show
 10 you what I've marked as Exhibit
 11 Six. And this is a page from the
 12 emergency physician record on Mr.
 13 Kelly. And do you recognize the
 14 doctor's handwriting in this case?
 15 A. No, sir.
 16 Q. I don't know -- it
 17 indicates that there's a --
 18 MR. STOCKHAM: Mark this
 19 as Exhibit -- the next exhibit.
 20 (Whereupon, Plaintiff's
 21 Exhibit Seven
 22 was marked for
 23 identification.)

1 A. Ascites, yes, sir.
 2 Q. Ascites. What we were
 3 seeing when we were looking at the
 4 pictures?
 5 A. Yes, sir.
 6 MS. MCDONALD: Object to
 7 the form.
 8 Q. And this emergency room
 9 record, is that something that you
 10 would have had when you were
 11 evaluating the patient?
 12 A. Yes, sir.
 13 Q. Looking at what I've
 14 marked as Exhibit Seven, up in the
 15 upper left-hand corner we've got a
 16 note. It says -- it talks about,
 17 3DHX. That would be three day
 18 history?
 19 A. Yes, sir.
 20 Q. And with a decrease of MS.
 21 What does MS mean?
 22 A. Mental status.
 23 Q. And dark urine. Sheriff

1 stated drowsy since increase in
2 meds last week. Robaxin. What is
3 Robaxin?

4 A. It's a muscle relaxer.

5 Q. The next thing it says,
6 HX --

7 A. History --

8 Q. -- history, drug
9 prescription?

10 A. I don't know what that
11 word says. It's something
12 prescription.

13 Q. Drug use, cocaine.

14 A. Yes, sir.

15 Q. But has not used in two
16 months incarcerated?

17 A. Yes, sir.

18 Q. Now, does the Robaxin
19 relate -- the increased Robaxin
20 relate to the poison that you were
21 talking about that you were -- in
22 your treatment plan?

23 MS. MCDONALD: Object to

1 A. Yes, sir.

2 Q. I'm going to show you your
3 discharge summary.

4 MR. STOCKHAM: Mark this
5 as the next Exhibit.

6 (Whereupon, Plaintiff's
7 Exhibit Eight
8 was marked for
9 identification.)

10 Q. This shows that -- a
11 discharge summary that you signed;
12 is that correct?

13 A. Yes, sir.

14 Q. And this was the --
15 reflects that your discharge
16 diagnosis was, possible hepatic
17 encephalopathy?

18 A. Yes, sir.

19 Q. And with probable
20 drug-induced hepatitis?

21 A. Yes, sir.

22 Q. Now, what is the
23 difference between hepatic

1 the form.

2 MR. WILFORD: Object to
3 the form.

4 Q. You can answer.

5 A. Yes, that's possible.

6 Q. Did you -- when you went
7 through -- you had him in ICU.
8 What kind of a treatment plan did
9 you have for him?

10 A. Mostly it's supportive, IV
11 fluids.

12 Q. Put him on IV fluids?

13 A. Yes, sir. Monitoring
14 liver function tests.

15 Q. Other than that was there
16 anything that you did?

17 A. Let me go back to the
18 history. Then, of course, the
19 neurochecks. And I believe I
20 checked a hepatitis profile as
21 well.

22 Q. Is that a study that you
23 did?

1 encephalopathy and hepatitis?

2 A. I guess you could say the
3 hepatic encephalopathy is a more
4 serious consequence or sequela to
5 hepatitis.

6 Q. Something that is a result
7 of?

8 A. Yes, sir. I mean, not all
9 patients that develop hepatitis,
10 whether infectious or inflammatory,
11 develop encephalopathic changes.
12 Usually these are patients that
13 have significant hepatitis. Mild
14 to moderate forms you usually don't
15 see it.

16 Q. So this would be a severe
17 case of hepatitis?

18 A. Yes, sir.

19 MS. MCDONALD: Object to
20 the form.

21 Q. Now, under the procedures
22 it says, abdominal US which
23 revealed moderate hepatomegaly.

1 What is abdominal US?

2 A. Ultrasound, it would have
3 to be.

4 (Whereupon, an
5 off-the-record
6 discussion was held.)

7 Q. (By Mr. Stockham) What is
8 moderate hepatomegaly?

9 A. Enlarged liver. Enlarged
10 liver.

11 Q. And diffuse gall bladder
12 wall thicken, what does that refer
13 to?

14 A. That's a non-specific
15 term. It's not really indicative
16 of hepatitis.

17 Q. Now, in your reason for
18 admission and hospital course you
19 restate what you had in your
20 history at the very beginning.
21 Looking down about five, six, seven
22 lines it says, he has seen Dr.
23 James in the past, which I was

1 function of clotting factor, which
2 -- an indirect measure of liver
3 function test.

4 Q. Is that an abnormal value?

5 A. Yes, sir. It is elevated.

6 Q. And does that mean his
7 blood won't clot as quickly or it
8 will clot faster?

9 A. It will not clot as
10 quickly. It would be more prone to
11 bleeding.

12 Q. Then it says, his total
13 bilirubin was seven point nine. Is
14 that abnormal?

15 A. Yes, sir.

16 Q. Is that high or low?

17 A. High.

18 Q. What is normal?

19 A. It'd say usually less than
20 one, one point five.

21 Q. So with a bilirubin level
22 of seven point nine, is that
23 indicative of the degree of

1 covering on the day of admission.

2 Is that why you -- when you became
3 the doctor at the time you stuck
4 with him rather than Dr. James
5 taking over when he --

6 A. Yes, sir.

7 Q. -- when he came in? I
8 believe he was out of town or had
9 an event he had to attend.

10 Q. Is that normal?

11 MS. MCDONALD: Object to
12 the form.

13 Q. Is that normal practice in
14 your -- the practice here in
15 Russell --

16 A. Yes, sir.

17 Q. -- in Alex City?

18 A. Yes, sir.

19 Q. Now, it said -- it says,
20 upon admission his PTINR is one
21 point five. What does that refer
22 to?

23 A. That is -- that refers to

1 hepatitis he was suffering?

2 A. Yes, sir.

3 Q. It was on the high end?

4 A. Yes, sir.

5 Q. It says, with AST of one
6 four four three. What is AST?

7 A. That's another marker for
8 liver functions.

9 Q. And is that a high number?

10 A. Yes.

11 Q. What is the normal?

12 A. Less than forty.

13 Q. So this is --

14 A. Forty, fifty. Markedly
15 elevated.

16 Q. On the order of a factor
17 of forty or some -- thirty or
18 forty, something like that?

19 A. Yes, sir.

20 Q. Is that an indication of
21 severe liver disease?

22 A. Yes --

23 MS. MCDONALD: Object to

1 the form.

2 A. Yes, sir.

3 Q. And an ALT of three four
4 two five. What is ALT?

5 A. That is also another
6 marker of liver disease or
7 dysfunction.

8 Q. And what is the normal for
9 that?

10 A. Same. I think less than
11 fifty, forty, fifty.

12 Q. So it's almost sixty or
13 seventy times the size of the
14 normal value?

15 A. Yes, sir.

16 Q. And then it says, elevated
17 alkaline FOS of two four one?

18 A. Same. It's a -- it can be
19 a marker for liver dysfunction as
20 well.

21 Q. And is that a high
22 value --

23 A. Yes, sir.

1 Q. -- as well?

2 A. Yes, sir.

3 Q. So the reason you included
4 all these things in here was to
5 indicate what measures are
6 reflective of the degree of hepatic
7 function he had?

8 A. Yes, sir.

9 Q. Now, it says his ammonia
10 level was slightly elevated at
11 thirty-seven. What is the normal
12 ammonia level?

13 A. Twenty. Twenty,
14 twenty-five.

15 Q. So this was only, like,
16 one and a half times the --

17 A. Yes, sir.

18 Q. -- normal value, roughly?
19 Is that still elevated, though?

20 A. Yes.

21 Q. But if someone had a value
22 of thirty-seven ammonia would that
23 indicate to you that they were

1 having a problem with their liver?

2 A. I would say, yes, sir.

3 Q. It says, his mental status
4 improved markedly with supportive
5 treatment. What did you mean by,
6 supportive treatment? Is that what
7 you were just telling me about?

8 A. Mostly IV --

9 Q. IV fluids?

10 A. Yes, sir.

11 Q. What was the purpose of
12 giving him IV fluids?

13 A. Well, certainly he
14 appeared -- for hydration purposes
15 since he was -- I don't believe he
16 was taking in much by mouth
17 beforehand, but I don't know that.

18 And that's about it. Increase the
19 renal function, increase diuresis.

20 Q. By, diuresis, you mean
21 kidney function?

22 A. Yes, sir.

23 Q. Your note reflects that

1 his mental status improved with .
2 supportive treatment. By that
3 you're referring to the flapping
4 test that you were talking about
5 earlier?

6 A. Oh, that part I don't know
7 about. Let me just say that his
8 confusion resolved.

9 Q. At the very last line it
10 says, he did complain with some
11 dysuria. Is that -- what is
12 dysuria?

13 A. Burning upon urination.

14 Q. Was that something that
15 you would have expected after
16 having given him all the fluids?

17 A. No, sir.

18 Q. But that was something
19 that you felt like you could go
20 ahead and discharge him with?

21 A. Yes, sir.

22 Q. The next thing it says, on
23 the day prior to discharge did have

1 some significant pyuria. What is
2 pyuria?

3 A. White blood cells in the
4 urine, which usually indicates
5 infection.

6 Q. Did he have an infection
7 at the time that he was discharged?

8 A. Well, pyuria is indicative
9 of urinary tract infection. So he
10 was treated empirically with
11 antibiotics. So it's quite
12 possible, yes, sir.

13 Q. So you were giving him
14 antibiotics at that point?

15 A. Yes, sir, the Bactrim.

16 Q. The antibiotics weren't
17 related to the treatment that you
18 gave him for his --

19 A. For his liver, no --

20 Q. -- for his liver?

21 A. No, sir.

22 Q. Now, looking back at the
23 first exhibit, which was the --

1 wanted to ask you -- if -- looking
2 at the list of the six drugs that
3 you indicate on the first of your
4 history, is there any expectation
5 from giving those six drugs that
6 you would have a liver problem?

7 MR. WILFORD: Object to
8 the form.

9 MS. MCDONALD: Same
10 objection.

11 A. I'd say yes. It's
12 certainly possible or highly
13 likely.

14 Q. Because of the levels that
15 are there or --

16 A. Because of the doses and
17 also because of the combination of
18 medication he was getting.

19 Q. Are there certain drugs
20 there that you -- that have a --
21 when combined have a negative
22 effect with each other?

23 A. I don't know about a

1 your history. Were you able to
2 determine whether or not the drugs
3 that are listed on the front of
4 that, those six drugs, were the
5 cause of his liver encephalopathy?

6 A. I would not say
7 definitively. I would say probably
8 highly likely.

9 Q. All right.

10 A. If not the cause,
11 certainly a contributing factor.

12 Q. Did you have anything else
13 besides the drug-induced
14 determination for causing his
15 hepatitis and his hepatic
16 encephalopathy?

17 A. No, sir. There -- I did
18 -- we did do hepatic -- a viral
19 hepatitis profile on -- over
20 several days. But usually that
21 takes a few days. And I think that
22 that came back negative as well.

23 Q. One of the things that I

1 synergistic response but certainly
2 things like Zyprexa and Seroquel
3 can adversely affect liver function
4 tests.

5 Q. How about the
6 phenobarbital, can it affect liver
7 function?

8 A. Yes, sir.

9 Q. How about the Robaxin?

10 A. Yes, sir.

11 Q. One of the things I noted
12 from the emergency note was the
13 sheriff indicated that when the
14 Robaxin was increased a week before
15 that it seemed to go -- to have an
16 effect. Is there --

17 MS. MCDONALD: Object to
18 the form.

19 Q. Is there any correlation
20 between Robaxin and liver problems?

21 A. I don't know. I don't
22 know.

23 Q. Did you make --

1 A. I'm not --
 2 Q. -- any determination?
 3 A. No, sir.
 4 MR. STOCKHAM: Mark this
 5 as the next exhibit.
 6 (Whereupon, Plaintiff's
 7 Exhibit Nine
 8 was marked for
 9 identification.)
 10 Q. Before -- how long does
 11 someone usually have to suffer with
 12 a liver problem before they become
 13 extremely jaundiced like Mr. Kelly
 14 did when you first saw him?
 15 MS. MCDONALD: Object to
 16 the form.
 17 MR. WILFORD: Same
 18 objection.
 19 A. There's no specific time
 20 frame. It depends on the insult,
 21 the causes.
 22 Q. Well, is it something that
 23 can happen in a day?

1 A. Yes, sir.
 2 Q. Something that can happen
 3 over a four week period as
 4 described here?
 5 A. Yes, sir.
 6 Q. I show you what's marked
 7 as Exhibit Nine. This is a
 8 document that the hospital produced
 9 and it indicates that your
 10 principal diagnosis is hepatic
 11 coma. What is hepatic coma?
 12 A. I believe that would be
 13 considered unresponsiveness
 14 secondary to liver failure or
 15 dysfunction.
 16 Q. Is that the same thing as
 17 hepatic encephalopathy?
 18 A. That I'm not sure about.
 19 I don't know that I would use the
 20 term "coma". He was not -- that he
 21 was unresponsive or required
 22 intubation, for example. So I
 23 don't know that I would go so far

1 as to say he was in hepatic coma.
 2 Q. This was in the record and
 3 that's why I'm asking you about it.
 4 A. Yes, sir.
 5 MS. MCDONALD: In what
 6 record?
 7 MR. STOCKHAM: The
 8 hospital record.
 9 Q. It's got your name there
 10 up at the top. Have you seen this
 11 document before?
 12 A. This one here
 13 (indicating).
 14 Q. Yes.
 15 A. I can't recall. I don't
 16 think so.
 17 Q. It looks like these are
 18 billing codes.
 19 A. Right. Yes, sir.
 20 Q. And that's why I'm asking
 21 if you had any -- was this
 22 something that the billing office
 23 would have generated, to your

1 knowledge?
 2 A. From the hospital, yes,
 3 sir. Yes, sir.
 4 Q. The bottom line, it's got
 5 -- refers to, poisoning by
 6 unspecified drug or medicinal
 7 substance. Does that relate to
 8 your drug-induced hepatitis that
 9 your discharge summary refers to?
 10 A. Yes, sir.
 11 Q. Now --
 12 MS. MCDONALD: Hey,
 13 Richard. Before we get to the
 14 point where you go to his records
 15 can we take a quick break?
 16 MR. STOCKHAM: Sure.
 17 (Whereupon, a brief
 18 recess was taken in
 19 the deposition.)
 20 Q. (By Mr. Stockham) Dr.
 21 Law, before -- looking at your
 22 discharge summary -- now, to a
 23 reasonable degree of medical

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1 certainty at the time that you
 2 discharged him did you determine
 3 that Mr. Kelly was suffering from
 4 hepatitis?
 5 MS. MCDONALD: Object to
 6 the form of the question.
 7 A. Yes, sir.
 8 Q. And that he was also
 9 suffering from hepatic
 10 encephalopathy?
 11 A. Yes, sir.
 12 Q. And these conditions -- at
 13 the time that you discharged him on
 14 the 20th of January, had you
 15 ameliorated his condition?
 16 A. Certainly he was no longer
 17 confused.
 18 Q. Was he --
 19 A. Or his encephalopathy had
 20 resolved.
 21 Q. His encephalopathy had
 22 resolved. And his hepatitis, had
 23 it resolved?

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1 A. No, sir. It was
 2 improving. I think it had improved
 3 but I don't think it had resolved.
 4 Q. And in your professional
 5 opinion had he not been treated by
 6 you at the time he did, was he in a
 7 serious -- was he likely to suffer
 8 severe injury or death?
 9 MS. MCDONALD: Object to
 10 the form.
 11 MR. WILFORD: Object to
 12 the form.
 13 A. It's possible, yes, sir.
 14 Q. Had you not intervened
 15 when you did was it to a reasonable
 16 degree of medical certainty that he
 17 would have suffered serious injury
 18 or death?
 19 MS. MCDONALD: Object to
 20 the form.
 21 MR. WILFORD: Object to
 22 the form.
 23 A. Yes, sir.

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1 Q. Now, is -- once you've
 2 suffered hepatitis is it completely
 3 reversible?
 4 A. It depends on the causes.
 5 If it's medication induced, usually
 6 yes.
 7 Q. What do you have to do to
 8 be able to reverse it if it's
 9 medication induced?
 10 A. Usually it improves with
 11 time once you've discontinued the
 12 offending agent.
 13 Q. While he was here in the
 14 hospital was he discontinued on all
 15 six of the drugs that you
 16 identified on the front of your
 17 history and physical exam, Doctor?
 18 A. Yes, sir.
 19 (Whereupon, Plaintiff's
 20 Exhibit Ten
 21 was marked for
 22 identification.)
 23 Q. Now, I want to show you

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1 what I've marked as the next
 2 exhibit. Look at that, please,
 3 sir.
 4 (Witness reviewing
 5 documents.)
 6 Q. That is your discharge
 7 summary from an admission of Mr.
 8 Kelly of January 28th, 2004 and
 9 discharged on February 1, 2004.
 10 A. Yes, sir.
 11 Q. Is that your signature on
 12 the second page?
 13 A. Yes, sir.
 14 Q. Did you treat him for this
 15 admission?
 16 A. Yes, sir.
 17 Q. This reflects that --
 18 under the discharge diagnoses that
 19 one was a dehydration that was
 20 resolved. Number two was a
 21 probable drug-induced hepatitis
 22 resolving. Number two, was that --
 23 the probable drug-induced hepatitis

1 resolving, is that a continuation
2 of the hepatitis that he was
3 admitted with on January 16th?

4 A. Yes, sir.

5 Q. Under your reason for
6 admission and hospital care it
7 reflects that he was -- that he
8 presented to the emergency room
9 complaining of nausea, vomiting and
10 diarrhea. Is that something that
11 you would have expected after your
12 discharge of him in January 20th?

13 A. No, sir.

14 Q. Now, looking at -- it
15 says, upon presentation here to the
16 emergency room he was noted to be
17 hypotensive. What does hypotensive
18 mean?

19 A. Low blood pressure.

20 Q. Does that in any way
21 relate to his probable drug-induced
22 hepatitis?

23 A. It's difficult --

1 Q. I noticed on the emergency
2 room note that -- and I'll show you
3 the next exhibit number.

4 MR. STOCKHAM: Mark this.
5 (Whereupon, Plaintiff's
6 Exhibit Eleven
7 was marked for
8 identification.)

9 Q. That indicates that he had
10 been vomiting four times since noon
11 and it was described as foul
12 smelling and yellow. Does the
13 vomiting correlate with the
14 dehydration?

15 A. Yes, sir. Yes, sir.

16 Q. If the -- what he is
17 vomiting up has a foul smell and is
18 yellow, does that relate to any
19 liver dysfunction?

20 A. No, sir. It's not really
21 indicative of anything specific.

22 (Whereupon, an
23 off-the-record

1 difficult to really assess.

2 Q. I notice on -- this says
3 -- you say, his liver function
4 tests continue to gradually
5 improve. Did you continue to give
6 him a series of liver tests while
7 he was in the hospital from the
8 28th to the 1st of February?

9 A. Liver function tests, yes,
10 sir, with blood work.

11 Q. And when you say they
12 continue to gradually improve, does
13 that mean that -- compared to the
14 -- his previous admission or to his
15 -- while he was in the hospital on
16 this particular occasion?

17 A. I believe while he was in
18 the hospital on this particular
19 occasion.

20 Q. Now, the dehydration that
21 you have referenced here, does that
22 in any way relate to his hepatitis?

23 A. I can't -- I don't know.

1 discussion was held.)
2 (Whereupon, Plaintiff's
3 Exhibit Twelve
4 was marked for
5 identification.)

6 Q. (By Mr. Stockham) I show
7 you what I've got as the -- marked
8 as the next exhibit. And that is
9 indicated as the emergency room
10 physician record. It reflects a
11 Dr. Goldhagen. Do you know Dr.
12 Goldhagen?

13 A. Yes, sir.

14 Q. Who is Dr. Goldhagen?

15 A. She is an ER physician
16 here.

17 Q. Looking at this one it
18 reflects under the chief complaint,
19 it shows, nausea and vomiting. And
20 then it reflects that -- on the
21 bottom of that big left-hand box it
22 says, similar symptoms previously,
23 and marked yes. Had -- were you

1 aware of any nausea and vomiting
2 that he had had when he was in the
3 hospital originally?

4 A. I don't recall.

5 Q. Looking at the onset of
6 this problem it reflects seven
7 days. That's a -- pretty much
8 covers the time frame from when he
9 left on the 20th to when he came in
10 on the 28th, doesn't it?

11 A. Yes, sir. What -- you
12 mean --

13 Q. Yeah. In those right at
14 the very top of that -- where the
15 body thing is, it says, onset and
16 it's got seven and days circled.

17 A. I see.

18 Q. Did you consider this
19 admission to be a continuation of
20 the previous admission that you had
21 had with him?

22 A. I would say yes.

23 Q. On the next page it's got

1 continued dehydration.

2 Q. Did that in any way relate
3 to his hepatitis problem?

4 A. That's quite -- quite
5 possible, or quite likely, yes,
6 sir.

7 Q. And by the time that he
8 was discharged did he still have
9 any problem with his hepatitis?

10 A. I cannot recall whether or
11 not his liver function tests were
12 still elevated.

13 Q. Looking at the -- under
14 your discharge diagnosis it
15 reflects that it's resolving.

16 A. Yes, sir.

17 Q. Does that just mean that
18 it's improving or that it -- in
19 your opinion it is better?

20 A. I'd say improving but not
21 resolved completely.

22 Q. Now, under your discharge
23 instructions it says that, he is to

1 a little figure of a body with an
2 area marked on his abdomen
3 reflecting tenderness. Does that
4 correlate with his complaints of
5 abdomen tenderness when he was in
6 previously?

7 A. Yes, sir.

8 Q. Does that relate to the
9 ongoing hepatitis problem that he
10 was having?

11 A. Well, I would say in his
12 case, yes, sir, most likely.

13 Q. Now --

14 MR. STOCKHAM: If you need
15 to take that, go right ahead.

16 THE WITNESS: Oh, no, sir.
17 It should be all right.

18 Q. Why did you keep him in
19 the hospital for four days --
20 actually, I guess, five days on
21 this admission?

22 A. I don't recall whether or
23 not it was from poor appetite or

1 remain house confined for at least
2 two months until his liver function
3 tests improve and/or normalize.

4 What do you mean by, normalize?

5 A. Until his liver function
6 tests are normal -- within normal
7 limits.

8 Q. And so at the time that
9 you discharged him you thought that
10 -- given the rate of improvement
11 you saw that you thought it would
12 be two months before he reached
13 that normalized --

14 A. Yes, sir.

15 Q. -- range?

16 A. Yes, sir.

17 Q. Now, I noticed on -- both
18 on this one and on the previous
19 discharge summary it makes
20 reference to migraine headaches.
21 Did Mr. Kelly have any migraine
22 headaches while he was here at
23 Russell Hospital under your care?

1 A. I can't recall. I do have
2 it documented in my discharge
3 summary he was having headaches
4 during his second admission. But
5 whether or not they're migraine
6 headaches or -- I mean --

7 Q. Do headaches relate in any
8 way to your diagnosis of hepatitis
9 or hepatic encephalopathy?

10 A. Yes, sir.

11 Q. How do they relate to it?

12 A. I mean, part of that may
13 be due to inability of the liver to
14 clear the toxins. Like --

15 Q. Is that a common sequela
16 or side effect of that?

17 A. Oh, yes, sir.

18 Q. You indicated that he
19 should be treated with
20 over-the-counter Motrin. Why
21 Motrin as opposed to some other
22 drug?

23 A. Well, I didn't want to --

1 been sued in this case.

2 A. Yes, ma'am.

3 Q. When you first saw Mr.
4 Kelly -- which was in January of
5 2004; is that correct?

6 A. In the initial admission?

7 Q. Yes.

8 A. Yes, ma'am.

9 Q. Was that the first time
10 you had ever seen him as a patient?

11 A. Yes, ma'am.

12 Q. And at that time were you
13 aware that he had previously been
14 seen in the emergency room at
15 Russell Medical Clinic?

16 A. No, ma'am.

17 Q. And when you saw him he
18 had already been admitted to ICU,
19 correct?

20 A. Yes, ma'am.

21 Q. Would you have had the
22 medical records from the hospital
23 available to you?

1 I didn't want him to take Tylenol,
2 any products that have Tylenol,
3 since Tylenol could be hepatotoxic
4 since he is recovering from his
5 hepatitis.

6 Q. At the time that you saw
7 him in the hospital January 28th
8 through February 1st of 2004 was he
9 still suffering from a serious
10 medical condition?

11 A. Yes.

12 Q. And by the time you
13 discharged him had his serious
14 medical condition resolved itself?

15 A. Not resolved but improved.

16 MR. STOCKHAM: That's all
17 I have.

18
19 EXAMINATION BY MS. MCDONALD:

20 Q. Dr. Law, I introduced
21 myself to you earlier. I'm Kristi
22 McDonald. I represent several of
23 the jailers and officers that have

1 A. Yes.

2 Q. Is there a reason why they
3 were not reviewed?

4 A. Well, because we don't --
5 I didn't even know he was in the
6 hospital beforehand.

7 Q. Is there note that he had
8 been previously seen?

9 A. No.

10 Q. Is there any particular
11 reason why there is not a note made
12 there that he has previously been a
13 patient there at the hospital or
14 why those records aren't provided
15 to you as a physician?

16 A. No, ma'am.

17 Q. Okay.

18 A. No, there is no --

19 Q. And --

20 A. There is no clear
21 documentation that, you know, if a
22 particular patient has been in the
23 emergency room on several occasions

1 or for --

2 Q. Or that he's a previous
3 admissions; is that correct?

4 A. That's correct.

5 Q. And there is nothing on
6 the computer that would indicate
7 he's been a previous -- he had been
8 seen as recently as December, like
9 a month before, there at the
10 hospital?

11 A. Sure. I mean, that's --
12 yes, ma'am.

13 Q. But you didn't review any
14 of those records, correct?

15 A. No.

16 Q. And as a physician, Dr.
17 Law, how important is it to take a
18 -- or to get an accurate history
19 from a patient?

20 A. Oh, I think it's very
21 important.

22 Q. Why is that important to
23 you?

1 correct.

2 Q. And if a patient is not
3 honest with you about his previous,
4 like, psychiatric illnesses, what
5 does that do to your --

6 A. Again, that can impact
7 your diagnosis.

8 Q. And did -- were you aware
9 when you first saw him that he had
10 a longstanding history of alcohol
11 abuse, of illicit drug abuse, as
12 well as prescription drug use?

13 A. No, ma'am.

14 Q. Did anybody from his
15 family offer that information to
16 you?

17 A. I do not believe so.

18 Q. Did --

19 A. I do not believe so but I
20 cannot recall.

21 Q. And will you -- if you
22 will, Doctor, would you look at
23 your records there that you have in

1 A. Well, otherwise you won't
2 be able to determine what's going
3 on in the patient if you --

4 Q. And if a patient doesn't
5 give you a correct or accurate
6 history what does that do to your
7 ability to treat him or to give a
8 correct diagnosis?

9 A. Certainly that can affect
10 your diagnosis.

11 Q. And if the patient is not
12 honest with you, up front with you,
13 about what medications he's been
14 taking or for how long he's been
15 taking them what does that do to
16 you?

17 A. Well, that certainly
18 clouds the issue.

19 Q. And does it make it hard
20 if not impossible to give an
21 accurate diagnosis if they're not
22 honest with you?

23 A. Yes, ma'am, I'd say you're

1 front of you that Mr. Stockham gave
2 you, the history and physical and
3 the discharge notes. Is there
4 anything in there that indicates
5 that he's got a longstanding
6 history of alcohol abuse, drug
7 abuse, both prescription and
8 illicit drugs?

9 A. Here it has been mentioned
10 that he has been in drug rehab. I
11 did mention the social history.

12 Q. All right. And if you --

13 A. But then he said he denied
14 any history of illicit drug use.
15 So --

16 Q. Well, cocaine, would that
17 be an illicit drug to you?

18 A. Yes, ma'am.

19 Q. Did he make you aware of
20 the fact that in November of 2003
21 that he was actually incarcerated
22 because he tested positive for
23 cocaine in violation of his

1 probation?

2 A. I don't recall.

3 Q. And would the history of
4 the drug use have been important to
5 you?

6 A. Yes, ma'am.

7 Q. And without that
8 information it makes it hard for
9 you as a doctor to treat him and
10 determine what's actually going on
11 and the causes of it, does it not?

12 A. Yes, ma'am.

13 (Whereupon, an
14 off-the-record
15 discussion was held.)

16 Q. (By Ms. McDonald) Dr.
17 Law, assuming that these records
18 are correct -- and I'll represent
19 to you that he does have a history
20 of alcoholism, what does alcoholism
21 do to a liver?

22 A. Certainly that causes
23 liver dysfunction as well.

1 2004 indicates family history

2 remarkable for alcoholism and
3 cirrhosis. Is that -- the family
4 history here, is that Mr. Kelly or
5 is that his dad or mom or --

6 A. I believe that's Mr.
7 Kelly, the patient.

8 Q. So that's -- the family
9 history, that's actually his
10 personal history?

11 A. Yes, ma'am.

12 Q. Whose responsibility, Dr.
13 Law, is it for prescribing
14 medications? Does that come from a
15 physician?

16 A. Yes, ma'am.

17 Q. And is it also the
18 physician's responsibility in
19 prescribing medications to make
20 sure that the medications that are
21 being prescribed don't have
22 interactions that are going to
23 cause problems for a patient?

1 Q. And if you are an
2 alcoholic and have been for years
3 and had a recent history of
4 continued alcoholism does that
5 impair the liver in a way that
6 would make it more difficult for it
7 to process the drugs that you're
8 taking?

9 A. Yes, ma'am.

10 Q. And what impact can the --
11 any drug have on the liver if you
12 are an alcoholic?

13 A. Well, it certainly
14 decreases the clearance of that
15 particular drug. So you have
16 higher levels in your system.

17 Q. And does that, just in
18 itself, being an alcoholic, put you
19 at an increased risk of getting the
20 hepatitis?

21 A. Oh, yes, ma'am.

22 Q. And the history and
23 physical here from January 16th of

1 A. I'd say yes.

2 Q. Are you familiar -- let me
3 ask you -- with Neurontin --

4 A. Yes, ma'am.

5 Q. -- as a drug? What is
6 Neurontin prescribed for?

7 A. Usually for neuropathy,
8 nerve damage.

9 Q. Is it also prescribed for
10 seizures?

11 A. Yes, ma'am.

12 Q. And when you saw Mr. Kelly
13 on January 16th, 2004 is there any
14 indication anywhere that he has a
15 history of seizures?

16 A. That I do not recall.

17 Q. Any family member tell you
18 that there was a history of
19 seizures?

20 A. I don't recall.

21 Q. What about Zyprexa, Dr.
22 Law, are you familiar with that
23 drug?

1 A. Yes, ma'am.

2 Q. And what is Zyprexa used
3 for or prescribed for?

4 A. Usually for psychotic
5 disorders. Sometimes it's used for
6 a -- as a mood stabilizer as well.

7 With his -- I believe he told me he
8 had a history of bipolar disorder
9 or -- but seizure disorder, I don't
10 -- I don't recall. But I thought I
11 saw -- had seen something on a
12 chart but --

13 Q. Seroquel, are you familiar
14 with that drug as well?

15 A. Yes, ma'am.

16 Q. What is Seroquel used for?

17 A. It's also used as an
18 antipsychotic as well.

19 Q. And the phenobarbital?

20 A. Most of the time it's used
21 for seizures.

22 Q. Is there another reason he
23 needs that drug?

1 A. Not usually --

2 Q. And Clonazepam, that -- is
3 that also -- is that also known as
4 Klonopin?

5 A. Yes, ma'am.

6 Q. What is Klonopin used for?

7 A. Insomnia. It has been
8 used for seizures. It's used for
9 agitation as well.

10 Q. Those five drugs right
11 there, do you -- have you ever
12 prescribed all five of those drugs
13 for any patient that you have
14 treated? Prescribed at one time?

15 A. At one time?

16 Q. Uh-huh.

17 A. No, ma'am.

18 Q. And do you know of any
19 problems there would be with those
20 five different medications, in
21 prescribing those to somebody who
22 has a history of alcoholism or
23 chronic drug abuse?

1 A. You mean all at once?

2 Q. Well, just take them one
3 at a time. Klonopin. Would you
4 prescribe Klonopin for somebody
5 that you knew had a history of
6 alcoholism or a history of drug
7 abuse?

8 A. Me personally?

9 Q. Yes, sir.

10 A. No.

11 Q. Why would you not
12 prescribe that personally?

13 A. I would be fearful of the
14 interaction between Klonopin and
15 alcohol.

16 Q. Okay.

17 A. It accentuates sedation
18 and even can cause respiratory
19 depression.

20 Q. And let's just take them
21 separately right now.

22 A. Okay.

23 Q. The Neurontin, would you

1 prescribe that for a patient that
2 you knew to have -- be -- have the
3 chronic alcoholism and a history of
4 drug abuse?

5 A. No, ma'am.

6 Q. And what would be the
7 reason behind not doing that?

8 A. Probably the same as the
9 Klonopin, excessive sedation.

10 Q. And Zyprexa, same
11 question. Would you prescribe it
12 for someone with a history of
13 alcoholism and chronic drug abuse?

14 A. Possible. I would not say
15 it's contraindicated.

16 Q. Okay.

17 A. So --

18 Q. What about the
19 phenobarbital?

20 A. No.

21 Q. Why --

22 A. Same reasoning as the
23 Klonopin, causes respiratory

1 depression in concert with alcohol
2 use.
3 Q. What about Seroquel?
4 A. I don't think that there
5 is any specific contraindication.
6 Q. And when you take -- I
7 mean, looking at those drugs, those
8 five drugs, in combination of each
9 other, what are the possibilities
10 that those -- that you're going to
11 have some adverse interactions with
12 all five of those drugs?
13 A. Highly likely.
14 Q. And why is that?
15 A. It's a cumulative effect.
16 They all -- they can all make you
17 drowsy.
18 Q. And if you have somebody
19 who has -- who is a chronic
20 alcoholic, they're already at risk
21 of liver problems, like we talked
22 about earlier, correct?
23 A. Yes, ma'am.

1 Q. And being on all five of
2 those medications at one time,
3 would that put you at an increased
4 risk of having more liver problems?
5 A. Yes, ma'am. That's true.
6 I mean, Seroquel and Zyprexa can
7 increase -- elevate -- or can
8 increase liver function tests.
9 Q. Okay.
10 A. Especially in those
11 particular dosages.
12 Q. Did anybody ever make you
13 aware that when Mr. Kelly got to
14 the Coosa County jail that the only
15 medications that had been
16 prescribed for him that he was
17 taking was Lorcet Plus and Zyprexa?
18 Those were the only two drugs. Did
19 anybody ever tell you that?
20 A. No, ma'am.
21 Q. Are you aware that Mr.
22 Kelly himself told somebody at --
23 Matt Hilyer from Cheaha Mental

1 Health Center that he -- Mr. Kelly
2 is the one -- and I will show you
3 what I will mark as Defendant's
4 Exhibit One.
5 (Whereupon, Defendant's
6 Exhibit One
7 was marked for
8 identification.)
9 Q. Mr. Kelly is the one who
10 provided this list to Matt Hilyer
11 at Cheaha Mental Health.
12 (Witness examining
13 documents.)
14 Q. If he was not taking those
15 medications when he got to the jail
16 and he told somebody that those
17 were his medications that he
18 needed, what does that say to you
19 about him, about Mr. Kelly?
20 A. Well, certainly he's not
21 trustworthy.
22 Q. And when you saw him in
23 January of 2004 you did not

1 prescribe him with any medication
2 when you released him, correct?
3 A. That is correct.
4 Q. Because he was off of all
5 his meds at that point?
6 A. No, ma'am.
7 Q. And if he had been taking
8 all of these medications up until
9 January the 16th of 2004 and he
10 just came off of them cold turkey
11 -- okay to do so?
12 A. Probably not.
13 Q. But you took him off of
14 them then. So you felt like it was
15 safe, correct?
16 A. Well, I mean -- really
17 didn't have a choice in the matter.
18 I mean, going through withdrawal of
19 these medications is not life
20 threatening as compared to
21 hepatitis.
22 Q. Right.
23 A. The lesser of two evils.

1 Q. Right. Now, what would be
2 the effect of going from Zyprexa
3 one time a day to possibly twice a
4 day to immediately being put off
5 all of these drugs at the dosages
6 that are right here in Defendant's
7 Exhibit One? What would that do to
8 somebody?

9 A. Probably increase
10 sedation --

11 Q. Okay.

12 A. Okay. As far as your
13 medications are concerned, I don't
14 know if this is what he told me or
15 if I got this from a list
16 somewhere.

17 Q. Okay.

18 A. I just can't -- I really
19 can't recall.

20 Q. And when you saw him
21 January 16th this is what he told
22 you, the Zyprexa, the Neurontin,
23 Klonopin, phenobarbital, Seroquel.

1 will look at his note from December
2 the 11th, 2003, I think that is
3 when he prescribed for him Robaxin
4 at a dosage of seven hundred and
5 fifty milligrams, two tablets BID.
6 That's twice a day --

7 A. Yes, ma'am.

8 Q. -- is that correct?

9 At that dosage would you
10 expect anything different?

11 A. Well, I mean, I certainly
12 think that that would increase his
13 risk of sedation.

14 Q. Looking at that same note
15 from December the 11th --

16 A. Uh-huh.

17 Q. -- of 2003, it says that
18 he was prescribed Zyprexa at five
19 milligrams; is that correct?

20 A. I mean, that's what it
21 says.

22 Q. The doctor prescribed?

23 A. Right.

1 And the only thing that's not on
2 this list that he told Matt Hilyer
3 was Robaxin, correct? The list --
4 the only difference in your list
5 and the list that I showed you
6 earlier is the Robaxin?

7 A. Yes, ma'am.

8 Q. And do you know how long
9 he had been on the Robaxin?

10 A. No, ma'am.

11 Q. These five medications,
12 though, by themselves, if you added
13 Robaxin to it would it change
14 anything?

15 A. It depends on at what
16 dose.

17 Q. You've got in front of you
18 the records of Dr. James that Mr.
19 Stockham provided you earlier --

20 A. Yes, ma'am.

21 Q. -- right there
22 (indicating). And I think Dr.
23 James prescribed him with -- if you

1 Q. When he saw -- when Mr.
2 Kelly saw you, though, the history
3 and physical indicates --

4 A. Right, according --

5 Q. -- he's taking twenty
6 milligrams; is that --

7 A. I believe that's what's on
8 the history.

9 Q. Will you look at Dr.
10 James' record from January the 2nd
11 of 2004?

12 A. January 2nd.

13 Q. I think it's at the top.
14 There it is (indicating).

15 That record indicates that
16 he -- that somebody called and said
17 they needed to change -- asked for
18 Zyprexa to be changed because the
19 mother -- Mr. Kelly's mother had
20 called and said that his Zyprexa
21 was supposed to have been twenty
22 milligrams and not five as they had
23 originally informed them?

1 A. Yes, ma'am, that's what it
2 says here in this phone message.

3 Q. So his Zyprexa was not
4 changed from five to twenty
5 milligrams until January the 2nd of
6 2004, assuming Dr. James' records
7 are correct; is that right?

8 A. That's what the records
9 show.

10 Q. That's what the record
11 shows.

12 A. That's not --

13 Q. And is there any problem
14 with going from five milligrams of
15 Zyprexa to twenty?

16 A. That's a pretty large jump
17 in dosage in my opinion.

18 Q. But you weren't the one
19 that did that; that was Dr. James,
20 correct?

21 A. Right. Yes, ma'am. I
22 don't really use Zyprexa much,
23 so --

1 thought that there was any
2 indication that he needed to be
3 hospitalized at that time?

4 MR. STOCKHAM: Objection.
5 Calls for speculation.

6 A. I don't know.

7 Q. You have reviewed the
8 liver test results that are in
9 those records?

10 A. Yes, ma'am.

11 Q. Based on the results that
12 are there in those records would
13 you have admitted Mr. Kelly to the
14 hospital, based on the liver --
15 abnormal liver tests that are in
16 those test results there from
17 January the 7th of 2004?

18 A. I don't know. I don't
19 know if I could answer that without
20 examining the patient.

21 Q. Okay.

22 A. In that state, you know.

23 Q. That indicates that -- the

1 Q. And you were referred
2 earlier to Dr. James' records of
3 January the 7th of 2004.

4 A. January 7th. Yes. Yes,
5 ma'am.

6 Q. And in those records that
7 -- there is an indication that
8 there was some -- that he had
9 abnormal liver tests; is that
10 correct?

11 A. Yes, ma'am.

12 Q. How long have you known
13 Dr. James?

14 A. Since I've been here.

15 Q. And you've been here since
16 2000; is that right?

17 A. Yes, ma'am. Seven years.

18 Q. Is -- in your opinion is
19 he a good doctor?

20 A. Yes.

21 Q. Do you think that Dr.
22 James would have released Mr. Kelly
23 to go back to jail if he'd have

1 January 7th note from Dr. James
2 indicates he is to be followed up
3 -- followed again in two weeks,
4 correct?

5 A. Well -- follow-up in two
6 weeks? Is that -- I'm sorry. I --

7 Q. Let me --

8 A. Did I -- follow-up in two
9 weeks, yes, ma'am. It's a phone
10 message.

11 Q. So sometime between
12 January the 7th and the time he
13 would have come back in two weeks,
14 which would have been, assuming
15 fourteen days, the 21st of January
16 of 2004 --

17 A. Yes, ma'am.

18 Q. -- he had to be admitted
19 to the hospital --

20 A. Yes, ma'am.

21 Q. -- right, nine days later,
22 correct?

23 A. Yes, ma'am.

1 Q. After he was -- you saw
2 him on, let's see, January 16th and
3 he was released to go to Birmingham
4 to be admitted to Brookwood
5 Hospital on what date?

6 A. That I'm not sure of.

7 Q. What does your discharge
8 note say that he was discharged?

9 A. It actually said to follow
10 up with a gastroenterologist.

11 Q. Okay. But it indicates --

12 A. His office -- as an
13 outpatient. So --

14 Q. The discharge instructions
15 that I have in front of me say, the
16 patient is to follow up with Dr.
17 Dickerson at Brookwood Medical
18 Center later on the day of
19 discharge, either later in the AM
20 or in the afternoon.

21 A. Yes, ma'am.

22 Q. Does that mean that you
23 discharged him to Dr. Dickerson's

1 A. No, ma'am.

2 Q. Would it surprise you to
3 know the history and physical from
4 Dr. Dickerson indicates that he
5 reported to him that he -- while he
6 was here in the hospital under your
7 care that he was taking Robaxin,
8 Phenobarb, Zyprexa, Seroquel and
9 Neurontin and Klonopin three times
10 a day? Would that surprise you?

11 A. Oh, yes.

12 Q. Would that also indicate
13 that he is not truthful?

14 A. Oh, yes, ma'am.

15 Q. After you released him on
16 January the 20th, 2004 when is the
17 next time you saw him?

18 A. January 20th -- May.

19 Q. And in May what did you
20 see him for?

21 MR. STOCKHAM: I think
22 that he was -- January 28th was the
23 next time he saw him.

1 care at Brookwood?

2 A. No, he was not
3 transferred.

4 Q. Did you discharge him with
5 the understanding that he was to go
6 to Brookwood Hospital --

7 A. Yes, ma'am.

8 Q. -- from here?

9 A. Yeah.

10 Q. Did you have a
11 conversation with Dr. Dickerson at
12 Brookwood?

13 A. I spoke to him before he
14 was discharged. Thought we would
15 possibly transfer versus
16 out-patient workup. I believe this
17 was at the -- this may have been at
18 the family's request.

19 Q. Have you ever reviewed any
20 of the medical records from
21 Brookwood Hospital from the day he
22 was admitted, January the 20th,
23 2004?

1 Q. Okay. After he was
2 released in the hospital on January
3 28th you saw him again as a patient
4 on May the what?

5 A. May the 27th.

6 Q. And can you tell me, Dr.
7 Law, why he came to see you?

8 A. I believe he came in for a
9 sinus infection.

10 Q. And what did he tell you
11 that he was taking at that time?

12 A. According to my records
13 here I have Vicoprofen twice a day.

14 Q. What is that drug?

15 A. It's a combination of
16 hydrocodone and ibuprofen.

17 Q. Did he tell you who had
18 prescribed it for him?

19 A. No, ma'am, I don't think
20 so.

21 Q. And you just saw him for
22 the sinus infection; is that
23 correct?

1 A. Yes, ma'am. And since I
2 was -- since he was there I may
3 have done some lab work. I
4 rechecked his liver function test.

5 Q. How was it at that time?

6 A. His proton had normalized
7 and his liver function tests had
8 normalized as well.

9 Q. And did you have any
10 discussion with him about any
11 alcohol or illicit drug use at that
12 time?

13 A. According to the records
14 he's not had any recent alcohol use
15 or recent illicit drug use.

16 Q. And that was in May of
17 2004, correct?

18 A. Yes, ma'am.

19 Q. And what did you do for
20 him on that occasion?

21 A. I gave him an antibiotic,
22 decongestant and Vicoprofen for his
23 -- he has chronic lower back pain.

1 psychiatrist at Brookwood at that
2 time. I just have this written
3 down that he was admitted to
4 Brookwood recently for
5 post-traumatic stress disorder.

6 And that's -- he was started on
7 Seroquel, 200, Klonopin twice a
8 day, the Percodan and the Zoloft.

9 Q. And when you saw him you
10 just referred him on. Did you
11 change any of his medications at
12 that time?

13 A. No, ma'am. No, ma'am.

14 Q. And when was the next time
15 you saw him?

16 A. This is November. This
17 was two months later.

18 Q. What was he coming to see
19 you for on that day?

20 A. Right leg pain.

21 Q. And what kind of treatment
22 did you prescribe for him at that
23 time?

1 Q. And when did you see him
2 again after that?

3 A. This was, looks like,
4 September of 2007 -- no, 2004. I'm
5 sorry.

6 Q. And why did he come to see
7 you in September of 2004?

8 A. He was having upper
9 abdominal pain at that time. I was
10 worried it might be an ulcer.

11 Q. Is there -- what did you
12 do for him, Dr. Law?

13 A. I think I gave him some
14 Percodan and made him an
15 appointment to see Dr. Holcombe,
16 along with some Nexium. And I
17 guess he was restarted on his
18 Seroquel, Zoloft and Klonopin at
19 that time.

20 Q. Do you have any idea who
21 was prescribing these medications
22 for him?

23 A. I believe he was seeing a

1 A. I gave him some Percocet
2 and refilled his Seroquel and
3 Zoloft.

4 Q. Did you start taking over
5 his treatment for the psychiatric
6 care at that time?

7 A. No, ma'am. I don't know
8 if he needed a refill -- I think he
9 was seeing a Dr. Teizen at
10 Brookwood. And I don't know if he
11 needed a refill, so that's why I
12 only gave him a couple months
13 worth.

14 Q. Did you verify the dosages
15 prior to prescribing that
16 medication for him?

17 A. No, ma'am.

18 Q. You just went by what he
19 told you?

20 A. Yes, ma'am.

21 Q. And then -- did you see
22 him again after November of 2004?

23 A. No. I think after that I

1 noticed that we had -- I had filled
2 several narcotics for him and so I
3 became suspicious and I did a drug
4 check with several different
5 pharmacies and found out that he
6 had been getting narcotics from
7 other physicians.

8 Q. Tell me why you did that
9 and what you did, please.

10 A. Well, I just noticed the
11 basic trend that he was getting --
12 every time he had come in he had
13 wanted narcotics.

14 Q. What if -- if a patient
15 comes in wanting narcotics or
16 seeking narcotics what does that
17 indicate to you as a physician, Dr.
18 Law?

19 A. Initially I give them the
20 benefit of the doubt, the first
21 episode or two, especially if
22 someone comes in with pain and you
23 don't know him. Then if I'm

1 Q. So those -- your nurse's
2 records indicate that he was doctor
3 hopping and drug-seeking, correct?

4 A. Yes, ma'am. So that's
5 when I dismissed him from the
6 office.

7 Q. And I do -- I believe that
8 there is -- and I do not have a
9 copy of this. I would like to get
10 a copy of this --

11 A. Yes, ma'am.

12 Q. -- and attach it as
13 Plaintiff's Exhibit Two. And this
14 being -- Doctor, this is the record
15 that -- right on here on top
16 (indicating) that you -- it's got a
17 Cymbalta note, sticky note. Is
18 this your nurse's indication of the
19 different pharmacies she called?

20 A. Yes, ma'am.

21 Q. And the attached letter is
22 dated November 22nd of 2004. It's
23 certified mail addressed to Mr.

1 suspicious after two or three
2 episodes I'll do a drug check.

3 Q. What does a drug check
4 entail?

5 A. I'll call the -- I'll have
6 my nurse call the pharmacy or
7 different pharmacies to check to
8 see if other narcotics have been
9 filled from other physicians.

10 Q. Is that something standard
11 you do with any patient who comes
12 in that you suspect may be --

13 A. Yes, ma'am.

14 Q. -- starting to abuse the
15 prescription drugs?

16 A. Yes, ma'am.

17 Q. What pharmacies were
18 called here?

19 A. According to these records
20 here RiteAid. He had been getting
21 several different prescriptions for
22 different pain medications, from
23 two or three different physicians.

1 Kelly.

2 A. Yes, ma'am.

3 Q. Appears to be signed by
4 Dr. Temple and Dr. Corbin and
5 yourself; is that correct?

6 A. That's right.

7 Q. And could you tell us
8 basically what this letter is and
9 what the purpose of that letter is,
10 please, sir?

11 A. Well, if we suspect that
12 someone is abusing narcotics and
13 find out that they're getting
14 narcotics from other physicians or
15 using it inappropriately then we'll
16 dismiss them from our office by
17 sending them a certified letter by
18 mail.

19 Q. Basically, telling them
20 you're not going to see them again?

21 A. Right. And then we sent
22 that.

23 Q. And I do not have a copy

1 of this letter in my records. So
2 if I can get a copy of this --

3 A. Yes, ma'am.

4 Q. -- letter we'll attach
5 this as Plaintiff's Exhibit Three
6 -- I mean, Defendant's Exhibit
7 Three. Sorry.

8 (Whereupon, Defendant's
9 Exhibit Four
10 was marked for
11 identification.)

12 Q. And, Dr. Law, I have what
13 I've had marked as Defendant's
14 Exhibit Number Four and -- that I
15 did not get a copy of from your
16 records. But is that from you?
17 Did you do that?

18 A. Yes, ma'am.

19 Q. And that basically looks
20 like you wrote a prescription out
21 saying he could not be returned to
22 jail; is that correct?

23 A. Yes, ma'am.

1 Q. Who asked you to do that?

2 A. I can't recall. I can't
3 -- either he or his family.

4 Q. Are you aware as a doctor
5 that you don't have that authority
6 to tell -- to tell --

7 A. Yes, ma'am.

8 Q. -- somebody he can't go
9 back to jail?

10 A. Right. I --

11 Q. Were you aware of it at
12 the time you --

13 A. I didn't know that when
14 I --

15 Q. -- wrote the prescription?

16 A. -- when I wrote this
17 prescription.

18 Q. Are you aware as a doctor
19 that you can't get somebody out of
20 jail, that that's got to be done by
21 a judge?

22 A. Yes, ma'am.

23 Q. Okay.

1 A. Well, now I am.

2 Q. Now you are?

3 A. But before then I didn't
4 know.

5 Q. Okay.

6 A. I think I have talked to
7 someone about this before and there
8 is some issue here. But, yes,
9 ma'am.

10 MS. MCDONALD: I'll attach
11 this as Defendant's Exhibit -- what
12 were we, Four? I think it is.

13 Q. Let me ask you a question,
14 Dr. Law. When you saw Mr. Kelly in
15 the hospital on January 16th of
16 2004 you did an examination of him,
17 correct?

18 A. Yes, ma'am.

19 Q. We talked about what the
20 examination revealed, about his
21 hands and about he had some ascites
22 in his abdominal area. And I think
23 you said he was -- his feet were a

1 little bit swollen?

2 A. Yes, ma'am, they were.

3 Q. Did you see any indication
4 of any abuse?

5 A. Like IV drug use or --

6 Q. No, if you -- let me let
7 you look at your -- the history and
8 physical from Russell Hospital
9 dated January 16, 2004. You did a
10 physical examination of him,
11 correct?

12 A. Yes, ma'am.

13 Q. If you will look over
14 that. If he had had any type of
15 bruising on his body would it be
16 noted under your physical exam?

17 A. Usually but I can't tell
18 you a hundred percent.

19 Q. And if you had -- if you
20 had seen any indication that there
21 had been any physical abuse would
22 you have noted it?

23 A. Yes, ma'am.

1 Q. And it's not noted there,
2 correct?
3 A. That's correct, yes,
4 ma'am.
5 Q. And is there -- was there
6 any indication that he had any
7 broken ribs?
8 A. No, ma'am.
9 Q. And if he had had any
10 indication or you had felt like
11 when you did an examination of him
12 that he had had broken ribs would
13 you have sent him down for
14 x-rays --
15 A. Oh, yes, ma'am.
16 Q. -- for that? And would
17 that also be noted here either in
18 the history and physical or in your
19 discharge notes?
20 A. Yes, ma'am. I mean, you'd
21 think he'd tell me, you know --
22 Q. Right.
23 A. -- if he was hurting.

1 Q. You would think that,
2 wouldn't you.
3 Did he -- you did an
4 examination of his abdomen. If he
5 had noted any pain when you did an
6 examination of that abdominal area
7 would you have explored it further?
8 A. Not unless I knew what it
9 was or what was causing the pain.
10 Q. Right. And you did an
11 examination of his extremities.
12 Did you see any indication of abuse
13 either on his arms or his legs?
14 A. No, ma'am.
15 Q. Did he report any abuse to
16 you when you saw him on January the
17 16th?
18 A. No, ma'am.
19 Q. Any kind --
20 A. Like physical abuse or --
21 Q. Any kind of physical
22 abuse?
23 A. No.

1 Q. And during that admission
2 to the hospital those -- I assume
3 you saw him over those four days
4 that he was here?
5 A. Yes, ma'am.
6 Q. Regular -- I mean, daily?
7 A. Yes, ma'am.
8 Q. Would you have seen him
9 more than one time a day?
10 A. Yes.
11 Q. At any time during those
12 four days did he report any type of
13 physical abuse to you?
14 A. No, ma'am, not that I can
15 recall.
16 Q. And did you see any
17 indication during those four --
18 that four day period any type of
19 physical abuse?
20 A. No, ma'am, not that I can
21 recall, so --
22 Q. And you returned -- he
23 returned to the hospital in

1 January -- later on in January, the
2 28th, maybe?
3 A. Yes, ma'am, I believe so.
4 28th.
5 Q. And, again, I'll ask you
6 this in questions. Did -- is there
7 any report of any physical abuse at
8 that time?
9 A. No, ma'am.
10 Q. And did you admit him on
11 that occasion?
12 A. Yes, ma'am, I did.
13 Q. And would you have done a
14 history and physical on him on that
15 date?
16 A. Yes, ma'am.
17 Q. You would have done a
18 physical examination of him as
19 well, Dr. Law?
20 A. Yes, ma'am.
21 Q. And did you note there
22 being any type of physical abuse at
23 that point?

1 A. No, ma'am.
 2 Q. Did he report any --
 3 A. Not that I can recall.
 4 Q. -- report any physical
 5 abuse to you at that time?
 6 A. No, ma'am.
 7 Q. And then you saw him again
 8 in May and then again I think it
 9 was July and November of 2004 in
 10 your office?
 11 A. Yes, ma'am.
 12 Q. At any point did he tell
 13 you of any type of physical abuse?
 14 A. No, ma'am, not documented
 15 in the chart.
 16 Q. There's no documentation
 17 of there -- him having any type of
 18 broken ribs?
 19 A. No, ma'am.
 20 Q. When you saw him those --
 21 in May and then again in July and
 22 November of 2004 did he report any
 23 type of seizure activity to you?

1 A. No, ma'am. I still don't
 2 have any documentation of any type
 3 of seizure disorder chart.
 4 Q. Did you ever have any
 5 discussion with him about his being
 6 bipolar or having any type of
 7 psychiatric illness?
 8 A. I believe yes but I can't
 9 recall the details of that
 10 conversation or those
 11 conversations. I obviously have it
 12 written down that, you know, as far
 13 as the actual psychiatrist that he
 14 saw.
 15 Q. Have you had any --
 16 sitting here today have you had any
 17 discussion with any of his
 18 psychiatrists who have treated him
 19 in the past?
 20 A. No, ma'am.
 21 Q. And you have not seen him
 22 since November of 2004, correct?
 23 A. That's correct.

1 Q. And according to your
 2 letter of November 22nd --
 3 A. Right, I won't --
 4 Q. -- you will not see him
 5 again, will you?
 6 A. Right.
 7 Q. If he calls to get an
 8 appointment or comes in you're not
 9 going to see him; is that right,
 10 Dr. Law?
 11 A. That's correct, yes,
 12 ma'am.
 13 MS. MCDONALD: I don't
 14 think I have anything right now,
 15 anything further at the moment, Dr.
 16 Law. Thank you.
 17 THE WITNESS: Okay.
 18
 19 EXAMINATION BY MR. WILFORD:
 20 Q. Dr. Law, my name is Gary
 21 Wilford and I represent the sheriff
 22 at the time all this occurred,
 23 Ricky Owens. And I just have a few

1 questions for you. Ms. McDonald
 2 got most of what I wanted to ask
 3 and then some.
 4 Just a background question
 5 to start off with. How did you
 6 come to choose Alexander City as a
 7 place to practice?
 8 A. It's pretty close. My
 9 family is in -- well, my parents,
 10 they're in Birmingham. I've always
 11 lived in Alabama. And so it's
 12 pretty -- it was, at that time,
 13 pretty close to where my parents
 14 lived.
 15 Q. And I'm going to jump
 16 around on you because, like I
 17 said --
 18 A. Oh, yeah.
 19 Q. -- Ms. McDonald got most
 20 of what I was after.
 21 Klonopin is a
 22 benzodiazepine, is it not?
 23 A. Yes, sir.

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1 Q. And I think you testified
2 earlier that there was some concern
3 about possible withdrawals when he
4 was admitted to the hospital on the
5 16th of January of '04, correct?
6 A. From Klonopin?
7 Q. Yes, sir.
8 A. No.
9 Q. No?
10 A. No.
11 Q. So you weren't concerned
12 about him having any withdrawals by
13 discontinuing the Klonopin?
14 A. Not by just taking it once
15 a day.
16 Q. Okay.
17 A. No, sir.
18 Q. So no chance of
19 benzodiazepine withdrawal?
20 A. No, sir.
21 Q. You also testified earlier
22 -- well, I think you testified
23 earlier that you don't use Zyprexa

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1 much; is that -- do I remember that
2 correctly?
3 A. Yes, sir. Yes, sir.
4 Q. Why is that?
5 A. I believe it's an
6 anti-psychotic and it needs to be
7 used primarily by a psychiatrist.
8 Q. And that's not your
9 specialty?
10 A. That's correct.
11 Q. Okay.
12 A. But, I mean, I have used
13 it some, so -- but I don't
14 routinely use it like I do blood
15 pressure medications.
16 Q. What would you use the
17 Zyprexa for then? Excuse me. What
18 would you prescribe Zyprexa for?
19 A. Usually someone who is
20 acutely psychotic and you're trying
21 to get them in to see a mental
22 health worker or a psychiatrist.
23 Q. So you'd use it as a kind

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1 of a stopgap measure, is that
2 right, temporary?
3 A. Until their psychiatrist
4 can take over their care. Which, I
5 mean, here in Alabama may take
6 several months.
7 Q. Is that something you
8 would closely monitor with your
9 patient while they were on it?
10 A. Yes, sir. Not so much for
11 -- I don't want to say so much for
12 medication side effects but more
13 the response the patient has to the
14 medication.
15 Q. And there was also some
16 testimony about the increased liver
17 enzymes that Dr. James noted back
18 on January 7 of 2004. Is it your
19 testimony that Dr. James erred in
20 sending Mr. Kelly back to jail on
21 January 7th of 2004?
22 A. I mean, I can't really
23 make that assessment.

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1 Q. That's what I'm asking.
2 You're not making that assessment,
3 are you?
4 A. Right, I'm not making that
5 assessment, so --
6 Q. Doctor, going back to your
7 discharge summary again for the
8 1-16-04 admission at Russell
9 Hospital. Your second discharge
10 diagnosis, probably drug-induced
11 hepatitis, correct?
12 A. Yes, sir.
13 Q. Do you have, as you're
14 sitting here today, any opinion as
15 to the mechanics of how he
16 developed drug-induced hepatitis?
17 A. It's -- I don't know for
18 sure.
19 Q. And let me -- just to make
20 sure that -- I hope you understand
21 what my question is. You know,
22 we've talked a little bit about his
23 history of alcohol abuse. We've

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1 talked about all the different
2 kinds of medications he was on
3 prior to his admission. One thing
4 we haven't asked you about and let
5 me ask this and then we'll ask that
6 mechanics question again.

7 Were you aware that he had
8 made a statement before that he had
9 been saving up his medications, as
10 many as twenty pills, and would
11 take them all at one time to get a
12 buzz? Were you ever informed of
13 that?

14 A. No, sir.

15 Q. So there's another
16 possible mechanic, correct?

17 A. Oh, sure. I --

18 Q. Or mechanism.

19 A. I think I see what you're
20 saying. Are there other
21 possibilities that could cause his
22 hepatitis? Sure. I mean, if he
23 was taking a lot of Lortab, which

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1 has Tylenol in it, I mean, that is
2 possible. That's why I could not
3 say definitively that he had --
4 that it was related to these
5 particular drugs that he was
6 receiving.

7 Q. Okay.

8 A. I mean -- or it could have
9 been, I guess, not likely if -- I
10 was going to say alcohol induced.
11 But it depends on how long he was
12 incarcerated.

13 Q. Could it also depend upon
14 how long he had been an alcoholic?

15 A. No, sir. Usually it's an
16 acute episode when the liver
17 function tests go up.

18 Q. Okay.

19 A. They don't usually remain
20 persistently elevated.

21 Q. Let's look, then, back at
22 the history and physical again from
23 the 1-16-04 --

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1 A. Yes, sir.

2 Q. -- admission, the
3 medications that you had listed
4 there at the time. Could an
5 overdose of Zyprexa have caused
6 those increased liver enzymes that
7 you saw?

8 A. Sure. Yes, sir.

9 Q. Same --

10 A. I mean, that's possible.
11 I mean, you can say that of any of
12 the other medications --

13 Q. That's what I was going to
14 ask you. For each one of those --

15 A. Same thing.

16 Q. -- an overdose of those
17 could cause those increased liver
18 enzymes, correct?

19 A. Yes, sir.

20 Q. And an overdose from any
21 one or more than one of these
22 medications would also have been
23 consistent with your physical

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1 observations of the patient,
2 correct?

3 A. Yes, sir.

4 Q. I believe you also
5 testified that in taking all of
6 these medications that we saw there
7 listed on the 1-16-04 history and
8 physical would have a cumulative
9 sedative correct; is that correct?

10 A. Yes, sir.

11 Q. What impact --

12 A. Most likely.

13 Q. I'm sorry?

14 A. Most likely, yes.

15 Q. What impact -- well, let
16 me back up and ask a setup
17 question.

18 Is it possible to build up
19 a tolerance to these kind of
20 medications?

21 A. I would have to say yes.

22 Q. Would having a tolerance
23 or a patient that had developed a

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1 tolerance, would it decrease the
2 sedative effect of these
3 medications?

4 A. Yes, sir. That's
5 possible.

6 Q. For the condition that you
7 saw him on on January 16th, 2004
8 going through into January 20th of
9 2004 would his fluid intake prior
10 to his admission have been
11 important?

12 A. You mean, in between his
13 first and second admission or --

14 Q. No, sir, prior to the
15 first time you saw him.

16 A. Oh, yes.

17 Q. Would that have been --
18 for the condition you saw him for
19 would his history of fluid intake
20 have been important?

21 A. Yes, sir.

22 Q. If he had not been taking
23 sufficient fluids would that have

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1 Q. Yeah, one last follow-up
2 question on Exhibit Seven. This is
3 the emergency room doctor's note.
4 Under past medical history it
5 reflects, substance, slash, alcohol
6 abuse, down there in the lower
7 left-hand corner?

8 A. Yes, sir.

9 Q. And it's got drug abuse
10 and alcohol abuse circled under
11 social history?

12 A. Yes, sir.

13 Q. Do you know who gave that
14 information to the intake doctor?

15 A. That I'm not sure about.
16 I mean, that would depend on what
17 the -- I guess the ER physician.

18 Q. And looking at the -- but
19 that would be something that was
20 available to you to review when he
21 came up on the floor?

22 A. Oh, yes, sir.

23 Q. Now, you've noted in your

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1 been something that you would have
2 noted had you been made aware of
3 it?

4 A. Oh, yes, sir.

5 Q. Okay.

6 A. Yes, sir.

7 Q. Just a second, Doctor.
8 Maybe one or two last
9 questions, Doctor.

10 During his admission from
11 1-16 to 1-20-04 did you ever
12 personally speak with anybody from
13 the Coosa County jail?

14 A. No, sir, I don't think so.
15 Don't think so.

16 Q. Would you have reflected
17 that in your records somewhere?

18 A. Most likely, yes, sir.

19 MR. WILFORD: Okay.
20 That's all I have. Richard, any
21 follow-up questions?

22

23 REEXAMINATION BY MR. STOCKHAM:

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1 record that he had significant
2 chronic lower back pain --

3 A. Yes, sir.

4 Q. -- as part of your
5 secondary diagnoses. Were any of
6 these drugs that you noted for that
7 pain?

8 A. Nothing but the Robaxin
9 possibly.

10 Q. Do you know the extent of
11 the pain he suffered from his lower
12 back?

13 A. No, sir.

14 Q. Okay. No note about that?

15 A. No, sir.

16 MR. STOCKHAM: Okay.
17 That's all I have.

18

19 REEXAMINATION BY MS. MCDONALD:

20 Q. I have a couple questions
21 real quick.

22 What was not made

23 available to you when you first saw

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1 him was the history of what he was
2 taking prior to November the 16th
3 of -- November 13th of 2003 when he
4 was admitted to Coosa County jail,
5 correct?

6 A. Yes, ma'am.

7 Q. And you did not have any
8 knowledge that up until November
9 the 26th of 2003 he was not taking
10 Clonazepam, Neurontin, Zyprexa,
11 phenobarbital or Seroquel, correct?

12 A. Yes, ma'am.

13 Q. So what you did not know
14 when you began treating him for
15 possible drug-induced hepatitis is
16 what drugs he was taking and for
17 how long he had been taking them --

18 A. That's correct.

19 Q. -- correct?

20 When -- Dr. James' notes
21 when -- of January 7th of 2004,
22 when he did those blood tests -- if
23 you will look at those records for

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1 16th, how do those compare?

2 A. I mean, they're quite a
3 bit higher.

4 Q. Based on -- I mean, your
5 understanding of the medications
6 that he was taking can you account
7 for that big of a difference over
8 nine days?

9 A. Oh, yes. I mean, as far
10 as it is possible, yes, ma'am.

11 Q. And can -- but you can't
12 tell when it happened, can you?

13 A. That's correct.

14 Q. And it can happen in --
15 within a twenty-four hour period?

16 A. As he said --

17 Q. Okay.

18 A. -- yes, ma'am.

19 Q. I mean, you could be
20 walking around kind of fine and
21 then within a twenty-four hour
22 period become jaundiced and have
23 the extended abdomen --

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1 me real quick, Dr. Law, the results
2 of the lab work, the CBC and the --
3 what else -- is that --

4 A. Urine --

5 Q. -- a metabolic rate?

6 A. Urinalysis and --

7 Q. Can you compare those to
8 the -- to the lab results that were
9 done nine days later on January
10 16th in your -- that are in your
11 history and physical or in your --
12 in the notes from Russell Hospital?

13 A. Yes, ma'am. I believe
14 that his -- that everything was
15 essentially unremarkable except for
16 the liver function tests.

17 Q. Right.

18 A. Were much higher.

19 Q. So the liver function
20 tests that were done on January the
21 7th compared to the ones that were
22 done when he got there on January
23 -- or when you saw him on January

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1 A. Yes, ma'am.

2 Q. -- correct?

3 And the pictures that you
4 were shown earlier, you didn't make
5 those pictures did you?

6 A. No, ma'am.

7 Q. Do you have any idea who
8 made them or when they were made or
9 where they were made?

10 A. No, ma'am.

11 Q. You don't even know if
12 they were made in any time period
13 that relates to his admission to
14 the January 16th, 2004
15 hospitalization, do you?

16 A. That is correct.

17 Q. And having never seen Mr.
18 Kelly before you have no idea
19 whether he's got a fat tummy or not
20 before, do you? I mean, I know he
21 had some fluid on his stomach
22 because you --

23 A. Whether or not he may have

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1 a protuberant abdomen?
 2 Q. Which is not unusual in
 3 somebody who's an alcoholic, is it?
 4 A. That's for -- just --
 5 Q. Thirty something --
 6 A. Any male --
 7 Q. -- year old male who is --
 8 A. Any male, yes, ma'am.
 9 Q. Who's not working because
 10 he is disabled. So it's not
 11 unusual for you to have a little
 12 weight on you and men gain weight
 13 in their bellies, don't they?
 14 A. Yes, ma'am.
 15 MR. STOCKHAM: Objection.
 16 Calls for speculation.
 17 Q. You --
 18 (Whereupon, an
 19 off-the-record
 20 discussion was held.)
 21 Q. You've been practicing
 22 seven years as a general
 23 practitioner of family medicine,

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1 correct?
 2 A. Yes, ma'am.
 3 Q. And you treat men of all
 4 ages, correct?
 5 A. Yes, ma'am.
 6 Q. And based on your practice
 7 in family medicine for the last
 8 seven years do you find that men
 9 tend to gain weight in their
 10 stomachs --
 11 A. Yes.
 12 MR. STOCKHAM: Objection.
 13 Q. -- as they get older?
 14 MR. STOCKHAM: Calls for
 15 speculation.
 16 MR. WILFORD: You can
 17 answer, Doctor.
 18 THE WITNESS: Oh, I can?
 19 MR. WILFORD: Yes.
 20 A. Yes. Yes, ma'am.
 21 MS. MCDONALD: I don't
 22 have any other questions.
 23 MR. WILFORD: I don't have

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1 anything else.
 2 (Whereupon, an
 3 off-the-record
 4 discussion was held.)
 5 (Whereupon, Defendant's
 6 Exhibits Two and Three
 7 were marked for
 8 identification.)
 9
 10 FURTHER THE DEPONENT SAITH NOT
 11
 12
 13
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 15
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 23

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1 C E R T I F I C A T E
 2
 3 S T A T E O F A L A B A M A)
 4 J E F F E R S O N C O U N T Y)
 5
 6 I hereby certify that the above
 7 and foregoing deposition was taken
 8 down by me in stenotype, and the
 9 questions and answers thereto were
 10 reduced to typewriting under my
 11 supervision, and that the foregoing
 12 represents a true and correct
 13 transcript of the deposition given
 14 by said witness upon said hearing.
 15 I further certify that I am
 16 neither of counsel nor kin to the
 17 parties to the action, nor am I in
 18 anywise interested in the result of
 19 said cause.
 20
 21
 22 Sandra Peebles Daniel
 23 Commissioner

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